

**Enrolled Minutes of the Sixty-First Regular Meeting  
Of the Twenty-Sixth Highland Town Council  
Monday, July 19, 2010**

*Study Session.* The Twenty-Sixth Town Council of the Town of Highland, Lake County, Indiana met in a study session preceding the regular meeting on Monday, July 19, 2010 at 6:40 O'clock P.M. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

*Silent Roll Call:* Councilors Bernie Zemen, Mark A. Herak, Dan Vassar, and Brian Novak were present. Councilor Konnie Kuiper was absent owing to a prior commitment. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

**General Substance of Matters Discussed.**

1. The Town Council discussed the agenda of the imminent meeting.

The study session ended at 6:58 O'clock p.m.

*Regular Meeting.* The Twenty Sixth Town Council of the Town of Highland, Lake County, Indiana met in its regular session on Monday, July 19, 2010 at 7:00 O'clock p.m. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

The Town Council President Mark A. Herak presided and the Town Clerk-Treasurer, Michael W. Griffin, was present to memorialize the proceedings.

The session was opened with the Town Councilor Bernie Zemen leading the pledge of allegiance to the United States Flag and offering a prayer.

**Roll Call:** Councilors Bernie Zemen, Mark A. Herak, Dan Vassar, and Brian Novak were present. Councilor Konnie Kuiper was absent owing to a prior commitment. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

**Additional Officials Present:** Katy Dowling, Deputy Clerk-Treasurer; John M. Bach, Public Works Director; Peter T. Hojnicki, Metropolitan Police Chief; Kenneth J. Mika, Building Commissioner; William R. Timmer, Jr., CFOD, Fire Chief; Alex M. Brown, CPRP, and Cecile Petro, Redevelopment Director were also present.

*Also present:* Randy Palmateer, Northwest Indiana Building Trades Council; Erich Swisher, Donald Sheppard Memorial Chapter of the Fraternal Order of Police; Joseph Kwasny, Highland Metropolitan Police Retired; James Turoci, Town Board of Metropolitan Police Commissioners and Highland Metropolitan Police Retired; Larry Barnes, Highland Metropolitan Police Retired; Kenneth Balon, Highland Metropolitan Police Retired; Thomas Kerr, Highland Metropolitan Police Retired; Robert Brakely, Highland Metropolitan Police Retired; Police Corporal Chris Balbo; Police Sergeant John Banasiak; and Police Officer Matusik, were present.

**Minutes of the Previous Session**

The minutes of the regular meeting of 21 June 2010 were approved by general consent.

The Town Council President noted that the Town Attorney Rhett L. Tauber was absent owing to the birth of his first grandchild, Taylor Marcus.

The Town Council President also conveyed condolences to Lisa Gauthier of the Community Events Commission on the death of her Dad.

**Special Orders:**

1. **Public Hearing:** On the matter of Establishing of Economic Development Target Area to be co-terminus with the ERA approved June 21, 2010.
  - (a) Attorney verification of Proofs of Publication: (The TIMES 25 June 2010) No attorney was present. The Town Clerk-Treasurer indicated that the proofs appeared to be in order. He further advised that the proceeding should go forward subject to verification by the Town Attorney.
  - (b) *Public Hearing.* The Town Council President called the hearing to order. There were no comments written or spoken. The hearing was closed.

Janet Smiluski was present on behalf of the petitioner.

- (c) Consideration of Introduced Ordinance No. 1463. Councilor Vassar introduced and filed this ordinance at the meeting of 21 June 2010. There was not further action.

Councilor Zemen moved to pass and adopt Ordinance No. 1463. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The ordinance was adopted. An Economic Development Target Area was established.

**TOWN OF HIGHLAND, INDIANA  
ORDINANCE NO. 1463**

**AN ORDINANCE DESIGNATING AN ECONOMIC DEVELOPMENT TARGET AREA WITHIN THE BOUNDARY OF AN ECONOMIC REVITALIZATION AREA ESTABLISHED BY RESOLUTION 2010-24 ADOPTED JUNE 21, 2010 THAT IS LOCATED AT 2440 FORTY FIFTH STREET TO ENABLE PROPERTY TAX ABATEMENT FOR RETAIL USES**

**WHEREAS**, Indiana Code 6-1.1-12.1; amended, (the "Act") allows a partial abatement of property taxes attributable to "Redevelopment" or "Rehabilitation" activities in "Economic Revitalization Areas" as those terms are defined in the Act, and

**WHEREAS**, On June 21, 2010, the Highland Town Council adopted **Resolution No. 2010-24** designating an Economic Development Revitalization Area at 2440 Forty Fifth Street; and

**WHEREAS**, IC 6-1.1-12.1-3(e) provides that any facility the primary purpose of which is retail food or beverage service; automobile sales or service; or other retail is not eligible for property tax abatement unless the facility is located in an Economic Development Target Area; and

**WHEREAS**, The Highland Redevelopment Commission desires to have the Real Estate located at 2440 Forty Fifth Street designated as an Economic Development Target Area for the purpose of offering property tax savings for retail uses; and

**WHEREAS**, IC 6-1.1-12.1-7(a)(1) enables the Town Council to designate an Economic Development Target Area by ordinance after a favorable recommendation by the Economic Development Commission in a specific geographic territory that *"has become undesirable or impossible for normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors that have impaired values or prevent a normal development of property or use of property"*; and

**WHEREAS**, IC 6-1.1-12.1-7(b) enables the Town Council to designate up to 15% of the total geographic territory of the town to be in Economic Development Target Areas;

**WHEREAS**, At a meeting held May 24, 2010, the Highland Economic Development Commission determined the area proposed for an Economic Development Target Area within the Economic Revitalization Area that is located at 2440 Forty Fifth Street is substantially less than 15% of the total geographic territory of the town; and

**WHEREAS**, At the meeting held May 24, 2010, the Highland Economic Development Commission unanimously recommended designation of an Economic Development Target Area located at 2440 Forty Fifth Street to enable property tax abatement for retail uses; and

**NOW THEREFORE, IT IS FOUND, DETERMINED AND ORDAINED**, by the Town Council of the Town of Highland as follows:

**Section 1.** That the foregoing findings in the preamble to this ordinance are true, all information required to be submitted has been submitted in proper form and all requirements for approval of property tax abatement for retail uses located at **2440 Forty Fifth Street** have been met.

**Section 2.** That the real estate within the Economic Revitalization Area established by **Resolution No. 2010-24** adopted June 21, 2010, that is located at 2440 Forty Fifth Street as described in **Exhibit A** attached and incorporated herein by reference, is found to be, declared and designated an *Economic Development Target Area*.

**Section 3.** That a property owner within said Economic Development Target Area who seeks tax abatement must submit an application of a form approved by the Redevelopment Commission and a "Statement of Benefits" (Form SB-1) prescribed by the Indiana Department of Local Government Finance before installing new equipment or before the redevelopment or rehabilitation of real property for which the person wishes to claim a deduction. The application fee shall be **\$250.00** to defray actual processing and administrative costs.

**Section 4.** That in the consideration of all abatement applications for retail uses, the Town Council will hold a public hearing before making its decision whether to approve a deduction. The Town Council may approve a deduction period up to ten (10) years.

**Section 5.** That the Clerk-Treasurer is authorized and directed to file a copy of this ordinance, including a description of the real estate as contained in **Exhibit A**, with the Lake County Auditor and the Department of Local Government Finance.

Introduced and Filed on the 21<sup>st</sup> day of June 2010. Consideration on same day or at same meeting of introduction was not considered pursuant to IC 36-5-2-9.8 as the final adoption of this ordinance should not occur before the holding of a public hearing on the subject matter of this ordinance.

**DULY ORDAINED and ADOPTED** this 19th Day of July 2010, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Mark Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

**EXHIBIT A**

Legal Description of 2440 Forty-Fifth Street

Lots #1 of the Brent Addition in the Town of Highland, Indiana

Lake County Parcel #45-07-33-101-005.000-026



EXHIBIT B

Circle Buick GMC Tax Abatement Application

On file

2. **Public Hearing:** On the matter of Granting Tax abatement, for a period not to exceed 10 years, to Petitioners Mr. Wayne Druktenis of Circle Buick/GMC, 1300 US 41, Schererville for remodeling at 2440-45<sup>th</sup> Avenue, Highland, bringing \$300,000 in new net assessed value and 10 new jobs. (*Resolution No. 2010-25 was adopted at 21 June 2010 Council meeting setting this matter for consideration at this meeting.*)

- (a) Attorney verification of proof of publication: (The TIMES 25 June 2010.) No attorney was present. The Town Clerk-Treasurer indicated that the proofs appeared to be in order. He further advised that the proceeding should go forward subject to verification by the Town Attorney.

- (b) **Public Hearing.** The Town Council President called the public hearing to order. There were no comments written or spoken. The hearing was closed.
- (c) Consideration of **Resolution No. 2010-26:** A Resolution Confirming Terms and Conditions Applicable to an Application for a Property Tax Abatement for conversion of sports sale facility to automotive retail facility, façade improvements, at 2440-45<sup>th</sup> Avenue.

Councilor Zemen moved and Councilor Novak seconded the passage and adoption of Resolution No. 2010-26. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The resolution was adopted.

**TOWN OF HIGHLAND, INDIANA  
RESOLUTION NO. 2010-26**

**A RESOLUTION CONFIRMING TERMS AND CONDITIONS APPLICABLE TO AN APPLICATION FOR A  
PROPERTY TAX ABATEMENT FOR THE CONVERSION OF A SPORTING GOODS FACILITY AND  
WAREHOUSE TO AN AUTO DEALER FACILITY AT 2440 FORTY FIFTH STREET**

*Applicant: Mr. Wayne Druktenis d/b/a Circle Buick GMC*

WHEREAS, Indiana Code 6-1.1-12.1 et seq.; amended, (the "Act") allows a partial abatement of property taxes attributable to "Redevelopment" or "Rehabilitation" activities in "Economic Revitalization Areas" as those terms are defined in the Act, and

WHEREAS, Property tax abatement, if approved, is applied as a deduction in the increase in assessed value that results from investment in new construction or rehabilitation of property; and

WHEREAS, On June 21, 2010, the Highland Town Council adopted **Resolution No. 2010-24** designating an Economic Development Revitalization Area at 2440 Forty Fifth; and

WHEREAS, An application for property tax abatement for the conversion of a sporting goods facility and warehouse to an auto dealer facility (the "Project") to be located on premises legally described as Lot #1 of the Brent Addition in the Town of Highland, Lake County, Indiana a/k/a 2440 Forty Fifth Street (the "Real Estate" legally described at Exhibit A) was received from Mr. Wayne Druktenis d/b/a Circle Buick GMC, a copy of which is attached and incorporated herein by reference at Exhibit B; and

WHEREAS, Said application proposes construction costs of \$500,000.00 with a net additional value of \$300,000.00 for the conversion of a sporting goods facility and warehouse to an auto dealer facility that would bring ten (10) new jobs to Highland for a total of sixty (60) jobs with an estimated \$1,597,500.00 annual payroll that may not proceed but for approval of tax abatement by the Town Council; and

WHEREAS, \$1,510,400.00 is the most recent assessed value of the property that is the subject of this resolution, a value assessed before improvements on the premises were added by the applicant; and

WHEREAS, \$1,810,400.00 is the estimated assessed value of the property upon completion of the Project; and

WHEREAS, The Real Estate is located within an Economic Revitalization Area within the Town of Highland;  
and

WHEREAS, The Act empowers the Town Council to approve a deduction as percentage of the increase in assessed value that results from investments in new construction or rehabilitation of property by following a hearing and confirmation of a Preliminary Resolution, provision of a public notice at least ten days before the date of a public hearing, conducting a public hearing and confirmation of a Final Resolution; and

WHEREAS, The Town Council adopted **Resolution 2010-25** fixing 7:00 PM, Monday, July 19, 2010, in the Council Chambers, Highland Town Hall, 3333 Ridge Road, Highland, Indiana, as the time and place for a public hearing for receiving testimony, remonstrances and objections from persons interested in or affected by the proposed application for tax abatement and directed the publication of notice of said hearing in accordance with the requirements of applicable law and notice was published ten days prior to the public hearing; and

WHEREAS, Notice of the public hearing was given to taxing units consistent with statutory requirements of IC 6-1.1-12.1-3 (a) to provide a "Statement of Benefits" expected to be derived from the proposed application ten days prior to the public hearing; and

WHEREAS, Town of Highland has heretofore established a Economic Revitalization Area consistent with its guidelines to create a positive image for the town through well designed, high quality development; increase jobs and generate tax revenues through new development; encourage development of business opportunities for all; encourage

private investment along the corridor; enhance district neighborhoods through increased well planned economic opportunities; and to aid in the elimination of incomplete or inappropriate land uses; and

WHEREAS, Real estate located at 2440 Forty Fifth Street, Highland, Indiana continues to be undesirable for, or impossible for, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors that have impaired values of or prevent a normal development of property or use of property, and/or such real estate includes a facility or group of facilities that are technologically, economically, or energy obsolete and which such obsolescence may lead to a decline in employment and tax revenues; and

WHEREAS, In considering the application and statement of benefits submitted by the petitioner, the Town Council has considered the effective utilization of vacant urban land, the stabilization and conservation of neighborhoods, the rehabilitation and replacement of obsolete and deteriorated structures, improvements to the physical appearance of the Town, effective utilization of energy, avoidance of environmental harm and increases in employment and assessed value of property located within the Town; and

WHEREAS, The Town Council now desires to affirmatively act upon the application for tax abatement from Mr. Wayne Druktenis d.b.a. Circle Buick GMC, a petitioner who seeks to invest, redevelop and rehabilitate property located at 2440 Forty Fifth Street, a property located in the established Economic Revitalization Area,

**NOW, THEREFORE, BE IT FOUND, DETERMINED AND RESOLVED**, by the Town Council of the Town of Highland as follows:

**Section 1.** Having reviewed the designation application and statement of benefits as filed by the petitioner, pursuant to IC 6-1.1-12.1 et seq., and having conducted a public hearing on Monday, July 19, 2010 regarding this matter, the Town Council as the designating body for the Town of Highland hereby makes the following findings and determinations, pursuant to IC 6-1.1-12.1-3(b):

(A) That the Town Council finds and determines in the affirmative that the estimate of the value of the redevelopment or rehabilitation project located at **2440 Forty Fifth Street, Highland**, consisting of construction costs of \$500,000.00 will yield an estimated final assessed value of **\$1,810,400.00**, representing an estimated \$300,000.00 increase over the current assessed value of **\$1,510,400.00** is reasonable for projects of this nature;

(B) That the Town Council finds and determines in the affirmative that the estimate of ten (10) individuals who will be employed and the fifty (50) individuals whose employment will be retained, for a total of sixty (60) jobs, can be reasonably expected to result from the proposed redevelopment and rehabilitation;

(C) That the Town Council finds and determines in the affirmative that the estimate of a \$1,597,500.00 annual payroll with average salaries of \$29,500.00 per year for those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation;

(D) That the Town Council finds and determines in the affirmative that all other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation;

(F) That the Town Council finds and determines in the affirmative that the totality of benefits from the increased private investment by the applicant within the Economic Revitalization Area is sufficient to justify the deduction authorized by this resolution.

**Section 2.** That **Resolution 2010-25** adopted by the Town Council on June 21, 2010, is hereby confirmed and the application for **property tax abatement** upon the *increase in assessed value* in consequence of a conversion of a sporting goods facility and warehouse to an auto dealer facility, located at 2440 Forty Fifth Street, which is the subject of this resolution, is hereby approved for a period of time **not to exceed ten (10) calendar years**, according to the schedule in IC 6-1.1-12.1-4(d)(10), subject to continuing compliance with the statement of benefits, IC 6-1.1-12.1 et seq., and the terms of this resolution;

**Section 3.** That pursuant to enabling authority provided at IC 6-1.1-12.1-2(i)(6), as a condition of approval for the deduction in assessed value, the applicant shall contribute **\$4,000.00** to the Town of Highland at closing from loans proceeds secured for construction of the Project. This payment shall be paid prior to final processing of this designation application.

**Section 4.** The Clerk-Treasurer is authorized and directed to file a certified copy of this resolution, including a description of the real estate (Lot #1 of the Brent Addition to the Town of Highland, Lake County, Indiana (a/k/a 2440 Forty Fifth Street) as contained in Exhibit A to this Resolution, with the Lake County Auditor, and such authorities as may be necessary to perfect this tax abatement authorization, pursuant to IC 6-1.1-12.1-3(d).

**DULY RESOLVED and ADOPTED** this 19<sup>th</sup> Day of July, 2010 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA

Mark Herak, President (IC 36-5-2-10)

ATTEST:

Michael W. Griffin, Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

EXHIBIT A

Legal Description of Real Estate, which is the subject of this Resolution No. 2010-26

Lot#1 of the Brent Addition to the Town of Highland, Lake County, Indiana a/k/a 2440 Forty Fifth Street, Town of Highland. ( Lake County Parcel Number #45-07-33-101-005.000-026)



EXHIBIT B

Application for property tax abatement for construction of a new building addition and façade improvement (the "Project") to be located on premises legally described as Lot #1 of the Brent Addition to the Town of Highland, Lake County Indiana a/k/a 2440 Forty Fifth Street (the "Real Estate" legally described at Exhibit A) received from Mr. Wayne Druktenis d/b/a Circle Buick GMC. (On file)

3. **Public Hearing:** Proposed Additional Appropriations in Excess of the 2010 Budget of the Parks Non-reverting Capital Fund in the amount of \$650,055.

- (a) Attorney verification of Proofs of Publication: The TIMES 08 July 2010. No attorney was present. The Town Clerk-Treasurer indicated that the proofs appeared to be in order. He further advised that the proceeding should go forward subject to verification by the Town Attorney.

- (b) **Public Hearing.** The Town Council President called the hearing to order. There were no comments written or spoken. The hearing was closed.
- (c) Action on **Appropriation Enactment No. 2010-30:** An Enactment Appropriating Additional Moneys in Excess of the 2010 Budget in Excess of the Annual Budget for the **Parks Non-reverting Capital Fund in the amount of \$650,055**, pursuant to I.C. 6-1.1-18, I.C. 36-5-3-5, et seq.

Councilor Vassar introduced and moved the consideration of Enactment No. 2010-30 at the same meeting of introduction. Councilor Novak seconded. Upon a roll call vote, a unanimous vote being necessary, there were four affirmatives and no negatives. The motion passed. The enactment could be considered.

Councilor Vassar moved the passage and adoption of Enactment No. 2010-30 at the same meeting of introduction. Councilor Novak seconded. Upon a roll call vote, a two-thirds vote being necessary, there were four affirmatives and no negatives. The motion passed. The enactment was adopted.

**Town of Highland  
Appropriation Enactment  
Enactment No. 2010-30**

**AN ENACTMENT APPROPRIATING ADDITIONAL MONEYS IN EXCESS OF THE ANNUAL BUDGET for the PARKS NON-REVERTING CAPITAL FUND, PURSUANT TO I.C. 6-1.1-18, I.C. 36-5-3-5, IC 36-10-3-20 AND IC 36-10-3-22(C).**

**WHEREAS,** Following a public hearing advertised pursuant to I.C. 5-3-1, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget for the **Parks Non-Reverting Capital Fund**;

**WHEREAS,** It has been determined that such additional appropriations as may be approved by this enactment, will not increase the levies set under I.C. 6-1.1-17, all pursuant to I.C. 36-5-3-5;

**NOW, THEREFORE BE IT ENACTED** by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** That for the expenses of said municipality, the following additional sums of money are hereby appropriated and ordered set apart out of the **Park Non-Reverting Capital Fund** herein named and for the purposes herein specified, subject to the laws governing the same:

**PARK NON REVERTING CAPITAL FUND**

Acct.	3XX.XX	Architect fees	\$ 500,000.00
Acct.	3XX.XX	Environmental Haz abatement	\$ 22,180.00
Acct.	3XX.XX	Surveying and Soil Analysis	\$ 15,875.00
Acct.	3XX.XX	Construction Project Management	\$ 35,000.00
Acct.	3XX.XX	Bond Sale Legal Services	\$ 40,000.00
Acct.	3XX.XX	Bond Sale Advisory Services	\$ 37,000.00
<b>Total:</b>			<b>\$650,055.00</b>

**Section 2.** That the Clerk-Treasurer is hereby authorized and instructed to inform the Department of Local Government Finance of this action and that these monies be made available for expenditure pursuant to I.C. 6-1.1-18.

**Section 3.** That in satisfaction and for the purposes of the provisions set out in I.C. 36-5-2-9.6, I.C. 36-5-3-5, I.C. 36-5-4-2, this enactment shall be deemed properly filed and introduced before the Town Council at a regular or special meeting, properly called and convened pursuant to I.C. 5-1.5-14 *et seq.*

Introduced and Filed on the 19<sup>th</sup> Day of July 2010. Consideration on the same day or at same meeting of introduction sustained a vote of 4 in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

**DULY ORDAINED AND ADOPTED** this 19<sup>th</sup> Day of June 2010, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of**



HIGHLAND, INDIANA

Mark A. Herak, President (IC 36-5-2-10)

ATTEST:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

4. **Public Hearing.** Considering the matter of the proposed establishment of a *General Improvement District* to be associated with a project to improve the 8700-8900 block of Idlewild Avenue to be known as the **Idlewild Avenue Reconstruction Project** financing the cost of these improvements through the Municipal General Improvement Fund. (Works Board Order No. 2010-20)
  - (a) Verification of Proofs of Publication. (IC 5-3-1; IC 36-9-17) (The TIMES: 25 June 2010.) No attorney was present. The Town Clerk-Treasurer indicated that the proofs appeared to be in order. He further advised that the proceeding should go forward subject to verification by the Town Attorney.
  - (b) **Public Hearing on Issue:** Whether the benefits that will accrue to the property liable to be assessed for the improvement will equal the maximum estimated cost of the improvement. The Town Council President called the hearing to order.
    1. Marjorie Reed, 2100 Kenilworth, Highland, expressed her support of the project and urged the Town Council to approve it. Ms. Reed noted that her property was at the intersection of Kenilworth and Idlewild.
    2. John Slamkowski, DDS, XXXX Idlewild Drive, Highland, inquired about the sidewalks seeking clarification regarding whether or not all sidewalks would be replaced. It was noted all would be replaced, but for those sidewalks that were in bad condition, those repairs would be included in the assessment.
    3. Chuck Boender, 8801 Idlewild Drive, Highland, stated that he favored all sidewalks to be replaced rather than some replaced and others not.

There were no further comments. The hearing was closed.

- (c) Consideration of **Works Board Order No. 2010-32.** Councilor Zemen moved the passage and adoption of Works Board Order No. 2010-32. Councilor Novak seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The works board order was adopted.

TOWN OF HIGHLAND  
Order of the Works Board No. 2010-32

AN ORDER CONFIRMING WORKS BOARD ORDER NO. 2010-20 ENTITLED "PRELIMINARY ORDER FOR THE IDLEWILD DRIVE RECONSTRUCTION PROJECT AND FINANCING THEREOF THROUGH MUNICIPAL GENERAL IMPROVEMENT FUND AND SPECIAL ASSESSMENTS FROM PROPERTY OWNERS BENEFITING FROM SUCH IMPROVEMENTS"

**Whereas**, pursuant to IC 36-1-2-24, the Town Council is the works board for the Town of Highland, Indiana (the "Town"); and

**Whereas**, pursuant to Ordinance No. 1084, adopted by the Town Council on March 23, 1998, the Town has established a Municipal General Improvement Fund to provide monies to construct, repair, reconstruct or improve certain streets, alleys, sidewalks, curbs, gutters and sewers within the Town; and

**Whereas**, several residents of the **8700-8900 blocks of Idlewild Drive** have requested consideration of the Town of Highland to install concrete curbs and to replace substandard sidewalks; and

**Whereas**, On June 21, 2010, the Town Council of the Town of Highland, Indiana adopted Works Board Order No. 2010-20 entitled *"Preliminary Order for Idlewild Drive Reconstruction Project and Financing thereof through Municipal General Improvement Fund and Special Assessments from Property Owners Benefiting from such Improvements"*, a copy of which is attached hereto and incorporated herein; and

**Whereas**, The Town Council has held a Public Hearing, after publication and mailing of notice as required by law, and has heard all interested persons regarding Works Board Order No. 2010-20; and

**Whereas**, The Town Council now desires to confirm Works Board Order No. 2010-20.

**Now Therefore**, be it resolved by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** That the Town Council hereby determines that the benefits that will accrue to the property liable to be assessed for the improvements (as defined in Works Board Order No. 2010-20) will be in excess of the maximum estimated cost of the improvement.

**Section 2.** That the Town Council hereby confirms Works Board Order No. 2010-20.

**Section 3.** That the Town Council hereby orders that the improvements be completed and hereby determines to levy special assessments against the owner of property to be benefited by the improvements in a total amount not to exceed the estimate of maximum cost for the Improvements, which assessments are to be levied upon completion of the Improvements and determined in accordance with the provisions of I.C. 36-9-36.

**Be it So Ordered.**

**Duly adopted** by the Town Council of the Town of Highland, Lake County, Indiana, this 19<sup>th</sup> day of July 2010 by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL OF THE TOWN OF  
HIGHLAND, INDIANA**

Mark Herak, President

*Attest:*

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer

**EXHIBIT**

**TOWN OF HIGHLAND**  
Order of the Works Board No. 2010-20

**PRELIMINARY RESOLUTION FOR THE IDLEWILD DRIVE RECONSTRUCTION PROJECT AND  
FINANCING THEREOF THROUGH MUNICIPAL GENERAL IMPROVEMENT FUND AND SPECIAL  
ASSESSMENTS FROM PROPERTY OWNERS BENEFITING FROM SUCH IMPROVEMENTS**

**Whereas**, pursuant to IC 36-1-2-24, the Town Council is the works board for the Town of Highland, Indiana (the "Town"); and

**Whereas**, pursuant to Ordinance No. 1084, adopted by the Town Council on March 23, 1998, the Town has established a Municipal General Improvement Fund to provide monies to construct, repair, reconstruct or improve certain streets, alleys, sidewalks, curbs, gutters and sewers within the Town; and

**Whereas**, several residents of the **8700-8900 blocks of Idlewild Drive** have requested consideration of the Town of Highland to install concrete curbs and to replace substandard sidewalks; and

**Whereas**, the cost for curb and sidewalk replacement shall be paid for by the adjoining property owners based upon front footage of their property through a special assessment pursuant to the Special General Improvement District statute; and,

**Whereas**, the Town Council desires to proceed with the **Idlewild Drive Reconstruction Project** and to finance the portion of the cost of such projects relating to reconstruction of curbs and sidewalks (each such portion of a project, an "Improvement") through the Municipal General Improvement Fund; and

**Whereas**, the Town has retained Garcia Consulting to prepare plans and specifications for the **Idlewild Drive Reconstruction Project**; and

**Whereas**, the Town desires to finance the costs of the improvements pursuant to assessments to be collected from the property owners benefited by the respective proposed improvements as set forth in IC 36-9-36.

**Now Therefore**, be it resolved by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** That the Town Council hereby makes a preliminary determination to proceed with the **Idlewild Drive Reconstruction Project** and to finance the cost of the improvements through the Municipal General Improvement Fund and the collection of special assessments from property owners benefited by the respective improvements pursuant to IC 36-9-36.

**Section 2.** That the Town Council hereby adopts the plans and specifications for the projects and directs the Project Engineer to place on file cross-sections, general plans and specifications for each of the improvements.

**Section 3.** That the Town Council hereby adopts the estimate of the maximum cost of each of the improvements attached hereto as Exhibit A and directs the Clerk Treasurer to place such estimate of maximum costs on file in the office of the Town Council.

**Section 4.** That the Town Council hereby determines to hold a public hearing regarding each of the improvements and whether the benefits that will accrue to the property liable to be assessed for the respective improvements will equal the maximum estimated cost of each of the improvements, which public hearing will be held at the regular meeting place of the Town Council at **7:00 P.M. on July 19, 2010**, and the Town Council further directs the Clerk Treasurer to publish notice of such hearing and to mail notice of such hearing to property owners affected by the respective improvements.

**Duly adopted** by the Town Council of the Town of Highland, Lake County, Indiana, this 21<sup>st</sup> day of June 2010 by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL OF THE TOWN OF  
HIGHLAND, INDIANA**

/s/ Mark Herak, President

*Attest:*  
Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer

#### **Communications:**

1. The Town Clerk-Treasurer read aloud a letter from Town Council of the Town of Griffith expressing appreciation for assistance rendered by Highland municipal employees during storm events of June 18 and 23, 2010.
2. The Town Clerk-Treasurer read aloud a note from Rev. Fred L. Standridge expressing appreciation for the events programmed during Independence Day.
3. The Town Clerk-Treasurer read aloud a printed e-missive from Vernon D. Sieb communicating his not being able to participate on the Community Events Commission.  
*Pursuant to IC 5-8-3.5 and IC 5-8-4, no further action is necessary to accept the resignation.*

**Staff Reports:** The Council received the following reports as information for the record:

#### **• Building & Inspection Report for June 2010**

Permit Type	Number.	Residential	Commercial	Est. Cost	Fees
Commercial	0	0	0	\$0.00	\$0.00
Buildings:					
Commercial	4	0	4	\$1,703,928.00	\$19,827.50
Additions or					
Remodeling:					
Signs:	7	0	7	\$15,263.00	\$1,924.50
Single Family:	1	1	0	\$159,500.00	\$1,931.50
Duplex/Condo:	0	0	0	\$0.00	\$0.00
Residential	0	0	0	\$0.00	\$0.00
Additions:					

Residential	74	74	0	\$585,351.00	\$9,408.00
Remodeling:					
Garages:	2	2	0	\$29,849.00	\$732.00
Sheds:	0	0	0	\$0.00	\$0.00
Decks & Porches:	13	13	0	\$23,223.00	\$2,278.00
Fences	14	13	1	\$28,824.00	\$1,339.00
Swimming pools:	10	10	0		\$730.00
Drain Tile	1	1	0	\$3,200.00	\$106.00
/Waterproofing					
Misc. (raze a garage):	4	4	0		\$349.50
<b>Total:</b>	<b>130</b>	<b>118</b>	<b>12</b>	<b>\$2,549,138.00</b>	<b>\$38,626.00</b>
<b>Electrical Permits</b>	<b>21</b>	<b>15</b>	<b>6</b>	<b>0</b>	<b>\$2,115.50</b>
<b>Mechanical Permits</b>	<b>17</b>	<b>13</b>	<b>4</b>		<b>\$1,525.50</b>
<b>Plumbing Permits</b>	<b>10</b>	<b>7</b>	<b>3</b>		<b>\$1,028.50</b>
<b>Water Meters</b>	<b>3</b>	<b>3</b>	<b>0</b>		<b>\$815.00</b>
<b>Water Taps</b>	<b>1</b>	<b>1</b>	<b>0</b>		<b>\$200.00</b>
<b>Sewer/Storm Taps</b>	<b>2</b>	<b>2</b>	<b>0</b>		<b>\$600.00</b>
<b>Total:</b>	<b>16</b>	<b>13</b>	<b>3</b>		<b>\$2,643.50</b>

**June Code Enforcement:** 159 warnings issued and 5 citations were issued.

There were 64 building inspections, 8 plumbing inspections, and 57 electrical inspections. There was one (1) electrical exam given.

• **Fire Department Report for June 2010**

	Month	Y.T.D.
General Alarms	15	71
Car Fires	1	6
Still Alarms	6	30
Ambulance calls	0	0

• **Workplace Safety Report for June 2010**

There were two incidents reported in June. The following incident summary was filed:

Department	Injuries this Month	Year to Date 2010	Total in 2009	Restricted Days 2010	Lost Workdays This Year	Restricted Days Last Year (2009)	Lost Workdays Last Year (2009)
Parks	1	1	2	6	3	0	0
Fire		1	0	0	0	0	0
Police	0	4	9	39	26	0	0
Street	0	0	4	0	0	0	0
Water & Sewer	0	0	4	0	0	18	82
Maint.	1	1	0	17	0	0	0
Other	0	1	0	0	0	0	0
<b>TOTALS</b>	<b>2</b>	<b>8</b>	<b>19</b>	<b>62</b>	<b>29</b>	<b>18</b>	<b>82</b>

Effective January 1, 2002, OSHA changed the record keeping guidelines. The municipality now counts the number of days lost from the day after the injury until the employee returns to work. Weekend, holidays, vacation days or other days scheduled off are included in the lost days count to a maximum of 180 days.

• **Statutory Boards and Commissions**

Executive Appointments made by Town Council President

Legislative or Fiscal Body Appointments made by Town Council

1. **Lake County Convention and Visitors Bureau Board of Directors (1)** appointment right away as long as it its made before or by **16 July 2010**. It is to be made by Town Council President. If not made timely, the Lt. Governor's appointee makes the appointment. Confer IC 6-9-2-3(i). It was reported that *the Municipal Executive made appointment July 14, 2010, naming the current appointee, Mary Rakoczy, 9042 Parrish Avenue, Highland, for a three year term.*

**Unfinished Business and General Orders:**

1. **Introduced Ordinance No. 1446:** An Ordinance to Amend Title XVII, Creating Chapter 177 of the Highland Municipal Code, regarding Public Works Projects, all pursuant to I.C. 36-1-4, IC 36-1-5 and IC 36-9-25 et sequitur. *Councilor Zemen introduced and filed Ordinance No. 1446, at the Town Council meeting of December 14, 2009. There was no further action. The ordinance was been reviewed and marked up at study sessions of the Town Council convened April 26, May 24, and June 28, 2010.*

Councilor Zemen introduced and moved the passage and adoption of Ordinance No. 1446. Councilor Novak seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The ordinance was adopted.

**ORDINANCE No. 1446**  
**of the**  
**TOWN of HIGHLAND, INDIANA**

**An Ordinance to Amend Title XVII, Creating Chapter 177 of the Highland Municipal Code, regarding Public Works Projects, all pursuant to I.C. 36-1-4, IC 36-1-5 and IC 36-9-25 et sequitur.**

**Whereas,** The Town of Highland, is a Municipal Government which may pass and codify ordinances for the operation of the government, all pursuant to IC 36-1-4 and IC 36-1-5;

**Whereas,** The Town of Highland, is a municipality located in Lake County which operates a Government, which is governed by the provisions of IC 36-5 et seq.; and,

**Whereas,** The Town of Highland, through its Town Council now wishes to still further perfect its own organization make certain amendments to the Highland Municipal Code, regarding public works and contractors , pursuant to IC 36-1-12 and other relevant law,

**Now, Therefore,** Be it hereby ordained by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** That the subchapter of the Highland Municipal Code that is called **Procedures for the Selection of Professional Consulting Services, which is comprised of Sections § 31.60 through § 31.64, is hereby amended by the restatement of that subchapter to be comprised of Sections §177.04 through § 177.08**, the text of which shall be included in the chapter created by Section 2 of this ordinance.

**Section 2.** That the Highland Municipal Code is amended by the creation of a new chapter in Title XVII of the Highland Municipal Code, to be numbered Chapter 177 which shall be called **Public Works Projects and Contractors**, which shall read as follows:

**PUBLIC WORKS PROJECTS and CONTRACTORS**

**§ 177.01 DEFINITIONS.**

(A) The definitions set forth in IC 36-1-12-1.2 shall apply throughout this chapter.

(B) *Public Work Defined.* As used in this chapter, "public work" means the construction, reconstruction, alteration, or renovation of a public building, airport facility, or other structure that is paid for out of a public fund or out of a special assessment. The term includes the construction, alteration, or repair of a highway, street, alley, bridge, sewer, drain, or other improvement that is paid for out of a public fund or out of a special assessment. The term also includes any public work leased by a political subdivision under a lease containing an option to purchase.

**§ 177.02 PUBLIC WORKS PROJECTS.**

(A) The board may purchase or lease materials in the manner provided in IC 5-22 and perform any public work, by means of its own workforce, without awarding a contract whenever the cost of that public work project *is estimated to be less than one hundred thousand dollars (\$100,000)*. Before a board may perform any work under this section by means of its

own workforce, the political subdivision or agency must have a group of employees on its staff who are capable of performing the construction, maintenance, and repair applicable to that work. For purposes of this subsection, the cost of a public work project includes the actual cost of materials, labor, equipment, rental, a reasonable rate for use of trucks and heavy equipment owned, and all other expenses incidental to the performance of the project.

(B) When the project involves the rental of equipment with an operator furnished by the owner, or the installation or application of materials by the supplier of the materials, the project is considered to be a public work project and subject to this chapter. However, an annual contract may be awarded for equipment rental and materials to be installed or applied during a calendar or fiscal year if the proposed project or projects are described in the bid specifications. **(Confer with IC 36-1-12-3.)**

**§ 177.03 CONTRACTS FOR ENGINEERING, ARCHITECTURAL, OR ACCOUNTING SERVICES; APPLICABILITY OF RESTRICTIONS OF GENERAL STATUTES.**

When any public work is proposed to be performed and the board determines by a two-thirds (2/3) vote that it is expedient and in the best public interest to employ professional engineering, architectural, or accounting services for the planning and financing of the public work and the preparation of plans and specifications, then the limitations and restrictions in the general statutes with respect to invalidity of contracts without an appropriation therefore, payment of fees solely from the proceeds of bonds or assessments when and if issued, and payment of fees solely from a special fund or funds to be provided in the future, do not apply to contracts for those professional services to the extent that such limitations and restrictions might otherwise prevent the payment of fees for services actually rendered in connection with those contracts or affect the obligation to pay those fees. **(Confer with IC 36-1-12-3.5)**

**PROCEDURES FOR THE SELECTION OF PROFESSIONAL CONSULTING SERVICES**

**§ 177.04 ADDITIONAL DEFINITIONS.**

For the purpose of this subchapter, *in addition to the definitions set forth in Section § 177.01*, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

**CONSULTANT.** An individual, partnership, limited liability company, corporation, association, joint venture, firm or any other form of unincorporated enterprise which performs professional services.

**FIRM.** An individual, partnership, limited liability company, corporation, association, joint venture, or any other form of unincorporated enterprise.

**PROFESSIONAL SERVICES.** Services that are:

(1) Within the scope of practices specified by I.C. 25-4 for architecture, I.C. 25-31 for professional engineering, or I.C. 25-21.5 for land surveying; or (2) Performed by any licensed architect, professional engineer, or land surveyor in connection with his professional employment or practice.

**PUBLIC AGENCY.** Includes a:

- (1) Political subdivision of the town, as defined in I.C. 36-1-2-13;
- (2) Municipally-owned utility;
- (3) Lessor corporation constructing a public facility to be leased to a political subdivision;
- (4) Any of the above acting as a local participating agency (LPA) in connection with a public works contract involving federal participation.

**PUBLIC WORKS.** The construction, reconstruction, alteration, or renovation of a public building, airport facility, or other structure that is paid for out of a public fund or out of a special assessment. The term includes the construction, alteration, or repair of a highway, street, alley, bridge, sewer, drain, or other improvement that is paid for out of a public fund or out of a special assessment. The term also includes any public work leased by a political subdivision under a lease containing an option to purchase.

**Statutory reference:**

*Procurement of services of Architects, Engineers and Land Surveyors, see I.C. 5-16-11.1; Public work, see I.C. 36-1-12-2*

**§177.05 NOTICE OF REQUIREMENT OF PROFESSIONAL SERVICES.**

(A) When professional services are required for a project, a public agency may:

- (1) Publish notice in accordance with I.C. 5-3-1;
- (2) Provide for notice (other than notice in accordance with I.C. 5-3-1) as it determines is reasonably calculated to inform those performing professional services of a proposed project;
- (3) Provide for notice in accordance with both divisions (A)(1) and (A)(2); or
- (4) Determine not to provide any notice.

(B) If the public agency provides for notice under divisions (A)(1), (A)(2), or (A)(3), each notice must include:

- (1) The location of the project;
- (2) A general description of the project;
- (3) The general criteria to be used in selecting professional services firms for the project file;
- (4) The place where any additional project description or specifications are on file;
- (5) The hours of business of the public agency; and
- (6) The last date for accepting statements of qualifications from interested parties.

**§ 177.06 BASIS FOR CONTRACTS; COMPENSATION.**

A public agency may make all contracts for professional services on the basis of competence and qualifications for the type of services to be performed, and negotiate compensation that the public agency determines to be reasonable. (Ord. 1145, passed 7-24-00)

**§ 177.07 REQUIREMENT TO COMPLY WITH STATE LAW.**

All consultants in public works projects will comply with the provisions of I.C. 5-16-11 et seq., regarding certain disclosures against conflicts of interest. (Ord. 1145, passed 7-24-00)

**§ 177.08 SPECIAL PROCEDURES FOR SELECTION OF PROFESSIONAL SERVICES CONSULTING CONTRACTS INVOLVING FEDERAL PARTICIPATION.**

(A) Applicability. In addition to the foregoing, this section shall apply for the retaining of professional services on contracts involving federal participation so that selection procedures are compatible with appropriate regulations and guidelines of the *U.S. Department of Transportation*.

- (1) Public agencies shall comply with the applicable provisions of this subchapter for all public works projects involving participation by the United States Department of Transportation;
- (2) Public agencies may comply with the applicable provisions of this subchapter for all other public works projects.

(B) Necessity for use of professional services (consultant). Professional services may be requested for a project where:

- (1) The in-house capabilities of the public agency are insufficient to accomplish the project within the desirable time; or
- (2) The complexity or nature of the project requires specialized expertise; or
- (3) It is more economical to engage such services; or
- (4) It is otherwise in the public interest.

(C) Authorization for employment of consultant. When determined at regular meeting of the public agency that professional consulting services are to be used, the minutes shall show that the public agency has decided to use the services of a consultant.

(D) Record of consultants. The public agency will develop and keep records according to the following:

- (1) The public agency will maintain files and records of consultants who have expressed interest in providing professional services and who have submitted information as to the qualifications of their firm;
- (2) The record of consultants will be based upon information provided by each consultant in a manner which may be prescribed, supplemented with such other information as is considered necessary to provide current data about the firm. The information shall include the name, address, list of principals, list of professional-technical-supportive staff, the qualifications and experience of individuals, the history and experience of the firm, the extent of involvement in noteworthy projects and technical and financial references. From time to time, supplemental information may be submitted by the consultant to keep their file current;
- (3) The record of listing of consultants will include the firms previously and currently satisfactorily employed by the municipality, and all MBE (Minority Business Enterprises) Firms currently listed in a directory on file with the Indiana Department of Administration Minority Business Development Division. The tabulation should produce a listing of four to eight firms for each type of work.

(E) *Selection of consultants.* The selection of consultants for specific projects will be made by a majority vote of the relevant governing body of the public entity.

(F) *Requests for proposals.* Prior to the consultant selection, the public agency will do the following:

- (1) The public agency will prepare a notice of projects for which consultant proposals are being requested that will include the scope of the work that reflects a clear, accurate and detailed description of the technical requirements for the services to be rendered. A list of identifying the evaluation factors and their relative importance must be included. The listing is to be posted for 30 days in the office of the public agency;
- (2) The notices will be sent to all firms that have met the requirements outlined in division (D) of this section, and which have requested in writing that notices covering specific types of projects be sent to them with the firm's request being renewed annually;
- (3) The public agency or the Indiana Department of Transportation will provide a cost estimate before negotiations of fees for the proposed work, considering like projects, risk and complexity, except for contracts awarded under small purchase procedures. This is to be used during negotiations.

(G) *Submission of proposals.* Any consultant having information of the firm's qualification on file in the public agency's office or submitting it with a proposal may submit proposal(s) for items noted in the notice of request for proposals during the period of time specified in the notice. The proposal must include:

- (1) Description of the proposed project;
- (2) Description of the anticipated work elements;
- (3) Proposed staffing for the work, including designation of project manager;
- (4) Proposed schedule of work; and
- (5) Information concerning current overhead rate as prepared by a CPA or a registered accountant, or as approved by the Indiana Department of Transportation.

(H) *Selection of consultant.* The public agency, after a review of the proposals received for a project, will decide which firm, in its opinion, is found to be most suitable for employment for that project. In keeping with the intent of Indiana's Affirmative Action Plan and Federal Regulations concerning employment of MBE Firms, the greatest possible consideration for use of these firms will be given during the selection process.

(I) *Reasons for selection.* The minutes of the meeting of the public agency will note the reasons for the selection of the recommended consultant.

(J) *Further technical review.* Upon the public agency's approval, the proposal received from the selected consultant, together with any necessary added information of breakdown of scope, schedule and proposed compensation, with man-hour estimates - overhead rate - direct costs, and the like, will undergo a further technical review by the public agency. As required, preliminary discussions between the consultant and the public agency will take place during these assessments.

(K) *When pre-award audit is required.* In those instances where 23 CFR 172.5(c)(1) requires pre-award audit evaluation on selected consultants which are expected to exceed \$250,000, or insufficient knowledge of the consultant's accounting system or the contract involves procurement of new equipment, the financial review will be made by the public agency in conjunction with the Indiana Department of Transportation's Accounting and Control Division.

(L) *Negotiations for contract.* Upon completion of the assessment of the consultant's proposal, the public agency will comply as follows:

- (1) Negotiations of the contract for the work will take place with the public agency and the group negotiating the contract, with documentation of the use of the evaluations during negotiations and a preliminary agreement developed and submitted from any necessary reviews and approvals. Upon receipt of needed approvals, including local, public agency and Indiana Department of Transportation approvals, a final contract will be executed.
- (2) If agreement cannot be reached during negotiations of a contract with reasonable efforts to reach an agreement, either the public agency or consultant may terminate the discussions. In such event, the selection and negotiations with an alternate firm may then be undertaken.

(M) *Exceptions to procedure.* In accordance with 23 CFR 172.7(b)(c), exceptions to the procedures are provided when the project-related expenses do not exceed \$25,000, or when specialized qualifications of a single consulting firm are required for the project, or when the project is considered to be an emergency, a particular consultant may be selected with concurrence of the Indiana Department of Transportation. In such cases, the public agency will prepare and submit a preliminary agreement to the Indiana Department of Transportation for review and approval.

(N) *Notice to proceed with work.* When approvals have been received by the Indiana Department of Transportation on the contract along with "Authorization to Proceed," a written notice to proceed with the work will be given to the consultant by the public agency. No compensation will be made for work undertaken prior to such notice to proceed. (Ord. 1145, passed 7-24-00)

**§ 177.09 PARTICULAR PROCEDURES INVOLVING PUBLIC WORKS THAT COST AT LEAST \$50,000; ADDED RULES FOR PROJECT OF \$100,000 OR MORE**

(A) The board shall prepare general plans and specifications describing the kind of public work required, but shall avoid specifications which might unduly limit competition. If the project involves the resurfacing (as defined by IC 8-14-2-1) of a road, or street the specifications must show how the weight or volume of the materials will be accurately measured and verified.

(B) The board shall file the plans and specifications in a place reasonably accessible to the public, which shall be specified in the notice required by subdivision (C).

(C) Upon the filing of the plans and specifications, the board shall publish notice in accordance with IC 5-3-1 calling for sealed proposals for the public work needed.

(D) The notice must specify the place where the plans and specifications are on file and the date fixed for receiving bids.

(E) The period of time between the date of the first publication and the date of receiving bids shall be governed by the size of the contemplated project in the discretion of the board, but it may not be more than six (6) weeks.

(F) If the cost of a project is one hundred thousand dollars (\$100,000) or more, the board shall require the bidder to submit a financial statement, a statement of experience, a proposed plan or plans for performing the public work, and the equipment that the bidder has available for the performance of the public work. The statement shall be submitted on forms prescribed by the state board of accounts.

(G) The board may not require a bidder to submit a bid before the meeting at which bids are to be received. The meeting for receiving bids must be open to the public. All bids received shall be opened publicly and read aloud at the time and place designated and not before.



- (H) The board shall either: (1) award the contract for public work or improvements to the lowest responsible and responsive bidder; or (2) reject all bids submitted.
- (I) If the board awards the contract to a bidder other than the lowest bidder, the board must state in the minutes or memoranda, at the time the award is made, the factors used to determine which bidder is the lowest responsible and responsive bidder and to justify the award. The board shall keep a copy of the minutes or memoranda available for public inspection. *(Section 5 in draft ordinance is covered here)*
- (J) In determining whether a bidder is responsive, the board may consider the following factors:
- (1) Whether the bidder has submitted a bid or quote that conforms in all material respects to the specifications.
  - (2) Whether the bidder has submitted a bid that complies specifically with the invitation to bid and the instructions to bidders.
  - (3) Whether the bidder has complied with all applicable statutes, ordinances, resolutions, or rules pertaining to the award of a public contract.
- (K) In determining whether a bidder is a responsible bidder, the board may consider the following factors:
- (1) The ability and capacity of the bidder to perform the work.
  - (2) The integrity, character, and reputation of the bidder.
  - (3) The competence and experience of the bidder.
- (L) The board shall require the bidder to submit an affidavit: (1) that the bidder has not entered into a combination or agreement: (a) relative to the price to be bid by a person; (b) to prevent a person from bidding; or (c) to induce a person to refrain from bidding; and (2) that the bidder's bid is made without reference to any other bid. **(Confer IC 36-1-12-4)**

**§ 177.10 ADDITIONAL PROVISIONS REGARDING RESPONSIBLE AND RESPONSIVE BIDDERS (Confer Sections 2 and 3 of draft ordinance)**

(A) **In addition to the provisions of Section § 177.09 (J) and (K),** in order to determine whether a contractor is a "responsible and responsive bidder" for the award of a public works contract, the contractor must submit the following information and supporting documentation verified under oath on a form designated by the Town, in order for the bid to be accepted:

- (1) Documents evidencing compliance with all applicable laws and ordinances pre-requisite to doing business in Indiana;
- (2) A valid federal employer tax identification number or, if an individual, a valid social security number;
- (3) A statement of compliance with provisions of Section 2000e of Chapter 21, Title 42 of the United States Code and Federal Executive Order No. 11246 as amended by Executive Order No. 11375 (known as the Equal Opportunity Employer provisions);
- (4) Disclosure of the name and address of each subcontractor from whom the contractor has accepted a bid and/or intends to hire on any part of the project. Further, each such subcontractor shall be required to adhere to the requirements set forth herein as though it were bidding directly to the Town. Each contractor shall submit all subcontractors' information and supporting documentation to the Town no later than the date and time of the contract award;
- (5) Certificates of insurance showing the following coverage necessary for the project:
  - (a) General liability (\$1 million minimum coverage);
  - (b) Worker's compensation (statutory limits); and
  - (c) Automobile liability.

Amounts not herein listed shall be determined by the awarding agency and set forth in the bid specifications;

- (6) The following statement of compliance:
  - (a) A statement of compliance with all provisions of the Indiana Common Construction Wage law (Indiana Code 5-16-7-1 et seq.), and all rules and regulations therein, for the past five (5) years.
  - (b) Such statement shall also provide that the contractor has reviewed the Common Construction Wage law (or federal Davis-Bacon and related Acts), has reviewed and agrees to pay the applicable common construction wage (or prevailing wage rate) as set forth in the common construction wage rate schedule (or prevailing wage determination) attached to the bid specifications, and will strictly comply with the Common Construction Wage law (or federal Davis-Bacon and related Acts) and related requirements.
- (7) Evidence of participation in apprenticeship and training programs applicable to the work to be performed on the project which are approved by and registered with the United States Department of Labor's Office of

- Apprenticeship, or its successor organization. The required evidence includes a copy of all applicable apprenticeship standards and Apprenticeship Agreement(s) for any apprentice(s) who will perform work on the public works project;
- (8) A copy of a written plan for employee drug testing;
  - (9) A statement that individuals who will perform work on the public works project on behalf of the contractor are properly classified as either (i) an employee or (ii) an independent contractor under all applicable state and federal laws and local ordinances;
  - (10) A statement that all employees are (i) covered under a current worker's compensation insurance policy and (ii) properly classified under such policy. If the contractor is insured with a carrier, the evidence of worker's compensation insurance shall be a copy of the "Information Page" of the contractor's worker's compensation policy and any continuation of that Information Page which include the name and address of the insured, as well as the class codes the compensation premium is based on and the total estimated remuneration per class code;
  - (11) A statement listing all employees who will perform work on the public works project and evidence that all listed employees are covered by a health and welfare plan and a retirement plan. The required evidence includes a copy of the summary plan description(s) or similar document(s); and
  - (12) Documents evidencing any professional or trade license required by law or local ordinance for any trade or specialty area in which the contractor is seeking a contract award. Additionally, the contractor must disclose any suspension or revocation of such license held by the company, or of any director, officer or manager of the company.
- (B) Any material changes to the contractor's status, at any time, must be reported in writing to the Town within fourteen (14) days of its occurrence. Failure to comply with this requirement is grounds for the contractor to be deemed a non-responsive and non-responsive bidder.
- (C) A contractor who has been found by the Indiana Department of Labor to be in violation of the Common Construction Wage law twice within a three (3) year period ***shall be deemed not to be a Responsible and Responsive Bidder for two (2) years from the date of the latest finding;***
- (D) If all of the above criteria are otherwise satisfied the Town may also consider the following factors, in its discretion, in awarding the project if such information is requested:
- (1) Statements as to past performance, which shall give an accurate and complete record of all public works projects completed in the past three (3) years by the contractor. Such statements shall include the names and addresses of the projects, original contract price, final contract price, and the names of all subcontractors used, if applicable, and a statement as to compliance with completion deadlines; and/or
  - (2) Any determinations by a court or governmental agency for violations of federal, state, or local laws including but not limited to violations of contracting or antitrust laws, tax or licensing laws, environmental laws, the Occupational Safety and Health Act (OSHA), the National Labor Relations Act (NLRA), or federal Davis-Bacon and related Acts. **(Confer Sections 2 and 3 of draft ordinance)**

**§ 177.11 INCOMPLETE SUBMISSIONS BY BIDDERS AND SUBCONTRACTORS (Confer Section 4 draft ordinance)**

It is the sole responsibility of the contractor to comply with all submission requirements at the time it submits its bid to the Town. The submission requirements also apply to all subcontractors, except that the contractor shall submit all subcontractor submissions to the Town no later than the date and time of the contract award. Contractor and/or subcontractor submissions deemed inadequate or incomplete may result in a determination that the contractor is not a responsible and responsive bidder.

**§ 177.12 MULTIPLE LOW BIDS (Confer Section 6 draft ordinance)**

When two or more responsible and responsive bidders submit the same low bid, the contract award shall be determined by drawing lots at a public meeting of the Town Council, unless one bidder is a local contractor and one is a non-local contractor, in which event the local contractor shall be awarded the contract.

**§ 177.13 CERTIFIED PAYROLL (Confer Section 7 draft ordinance)**

All contractors and subcontractors working on a public works project, the value of which meets or exceeds the threshold levels set by the State of Indiana in the Indiana Common Construction Wage law, shall submit a weekly certified payroll identifying each of its employees by name, the employee's job classification, hourly rate of pay and hourly fringe benefits rate. Each shall utilize the federal form now known as a WH-347 (or a successor form or a State of Indiana certified payroll form if and when such a form is adopted) which must be submitted on a weekly basis within five (5) days after the end of each week which the contractor or subcontractor performed its work on the public works project.

**§ 177.14 RECORDS AND DOCUMENTS SUBMITTED TO BE PUBLIC RECORDS (Confer Section 8 draft ordinance)**

All information submitted by a contractor or sub-contractor pursuant to this Ordinance, including certified payrolls, are public records subject to review pursuant to the Indiana Access to Public Records law (Indiana Code 5-14-3-1 et seq.).

**§ 177.15 MATERIALITY (Confer Section 9 draft ordinance)**

The requirements of this Chapter, set forth in Sections §177.10 to §177.14 are a material part of the bid documents and the contract and the successful bidder shall insert this Chapter in all subcontracts.

**§ 177.16 BOND or CERTIFIED CHECK; FILING BY BIDDERS**

(A) If the cost of the public work is estimated to be more than two hundred thousand dollars (\$200,000), the Town and its political subdivisions **shall require a bond** or a certified check to be filed with each bid by a bidder in the amount determined and specified by the board in the notice of the letting; and

(B) If the cost of the public work is estimated to be not more than two hundred thousand dollars (\$200,000), the Town and its political subdivisions **may** require a bond or a certified check to be filed with each bid by a bidder in the amount determined and specified by the board in the notice of the letting.

(C) The amount of the bond or certified check may not be set at more than ten percent (10%) of the contract price. The bond or certified check shall be made payable to the Town, the Department or the political subdivision.

(D) All checks of unsuccessful bidders shall be returned to them by the board upon selection of successful bidders. Checks of successful bidders shall be held until delivery of the performance bond, as provided in IC 36-1-12-14(e).

**(Confer with IC 36-1-12-4.5)**

**§ 177.17 PROCEDURE FOR ACCEPTING QUOTES**

(A) This section applies whenever a public work project is estimated to cost at least twenty-five thousand dollars (\$25,000) and less than fifty thousand dollars (\$50,000).

(B) The board must proceed under the following provisions:

- (1) The board shall invite quotes from at least three (3) persons known to deal in the class of work proposed to be done by mailing them a notice stating that plans and specifications are on file in a specified office. The notice must be mailed not less than seven (7) days before the time fixed for receiving quotes.
- (2) The board may not require a person to submit a quote before the meeting at which quotes are to be received. The meeting for receiving quotes must be open to the public. All quotes received shall be opened publicly and read aloud at the time and place designated and not before.
- (3) The board shall award the contract for the public work to the lowest responsible and responsive quoter.
- (4) The board may reject all quotes submitted. **(Confer with IC 36-1-12-4.7)**

**§ 177.18 ALTERNATIVE PROCEDURE FOR PROJECTS COSTING LESS THAN \$150,000.**

(a) For a public work for the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property in which the cost of the public work is estimated to be less than one hundred fifty thousand dollars (\$150,000), the board may award a contract for that public work in the manner provided in IC 5-22. **(Confer with IC 36-1-12-4.9)**

**§ 177.19 ALTERNATIVE PROCEDURE FOR PROJECTS COSTING LESS THAN \$50,000.**

(A) Whenever a public work project is estimated to cost less than fifty thousand dollars (\$50,000), and a contract is to be awarded, the board may proceed under Section §177.09 or under subsection (b) or (c).

(B) The board must proceed under the following provisions:

- (1) The board shall invite quotes from at least three (3) persons known to deal in the class of work proposed to be done by mailing them a notice stating that plans and specifications are on file in a specified office. The notice must be mailed not less than seven (7) days before the time fixed for receiving quotes.
- (2) The board may not require a person to submit a quote before the meeting at which quotes are to be received. The meeting for receiving quotes must be open to the public. All quotes received shall be opened publicly and read aloud at the time and place designated and not before.
- (3) The board shall award the contract for the public work to the lowest responsible and responsive quoter.
- (4) The board may reject all quotes submitted.
- (5) If the board rejects all quotes under subdivision (4) of this section, the board may negotiate and enter into agreements for the work in the open market without inviting or receiving quotes if the board establishes in writing the reasons for rejecting the quotes.

(C) The board may not proceed under subsection (B) for the resurfacing (as defined in IC 8-14-2-1) of a road, street, or bridge, unless:

- (1) the weight or volume of the materials in the project is capable of accurate measurement and verification; and

(2) the specifications define the geographic points at which the project begins and ends.

(D) For the purposes of this section, if contiguous sections of a road, street, or bridge are to be resurfaced in a calendar year, all of the work shall be considered to comprise a single public work project.

(E) The board may purchase or lease supplies in the manner provided in IC 5-22 and perform the public work by means of its own workforce without awarding a public work contract.

(F) Before the board may perform any work under this section by means of its own workforce, the political subdivision or agency must have a group of employees on its staff who are capable of performing the construction, maintenance, and repair applicable to that work.

(G) Quotes for public works projects costing less than twenty-five thousand dollars (\$25,000) may be obtained by soliciting at least three (3) quotes by telephone or facsimile transmission. The seven (7) day waiting period required by subsection (B)(1) does not apply to quotes solicited under this subsection. **(Confer with IC 36-1-12-5)**

**§ 177.20 CONTRACTS; NOTICE TO PROCEED; FAILURE TO AWARD AND EXECUTE CONTRACT AND TO ISSUE NOTICE; ELECTION BY BIDDER TO REJECT CONTRACT.**

(A) Except as provided in subsections (B) and (C), the board shall award the contract and shall provide the successful bidder with written notice to proceed within sixty (60) days after the date on which bids are opened.

(B) If general obligation bonds are to be sold to finance the construction that is the subject of the bid, the board shall allow the bidder ninety (90) days.

(C) If revenue bonds are to be issued, when approved by the utility regulatory commission, or if special taxing district, special benefit, or revenue bonds are to be issued and sold to finance the construction, the board shall allow the bidder one hundred fifty (150) days.

(D) A failure to award and execute the contract and to issue notice within the time required by this section entitles the successful bidder to:

- (1) reject the contract and withdraw his bid without prejudice; or
- (2) extend the time to award the contract and provide notice to proceed at an agreed later date.

If the successful bidder elects to reject the contract and withdraw his bid, notice of that election must be given to the board in writing within fifteen (15) days of the sixty (60) day expiration date or any other extension date. **(Confer with IC 36-1-12-6)**

**§ 177.21 PUBLIC BUILDINGS; APPROVAL OF PLANS AND SPECIFICATIONS BY LICENSED ARCHITECT OR ENGINEER**

Public work performed or contracted for on a public building, the cost of which is more than one hundred thousand dollars (\$100,000) may be undertaken by the board only in accordance with plans and specifications approved by an architect or engineer licensed under IC 25-4 or IC 25-31. **(Confer with IC 36-1-12-7)**

**§ 177.22 ROAD or STREET WORK; OPEN PRICE PROVISIONS; PRICE ADJUSTMENTS OF MATERIALS; LIMITATIONS**

The board may award a public work contract for road, street, or bridge work subject to the open price provisions of IC 26-1-2-305. The contract may provide that prices for construction materials are subject to price of materials adjustment. When price adjustments are part of the contract, the method of price adjustments shall be specified in the contract. However, this section does not authorize the expenditure of money above the total amount of money appropriated by the Town for road, street, or bridge contracts. **(Confer with IC 36-1-12-8)**

**§ 177.23 EMERGENCIES; CONTRACTS BY INVITATION**

(A) The board, upon a declaration of emergency, may contract for a public work project without advertising for bids if bids or quotes are invited from at least two (2) persons known to deal in the public work required to be done.

(B) The minutes of the board must show the declaration of emergency and the names of the persons invited to bid or provide quotes. **(Confer with IC 36-1-12-9)**

**§ 177.24 PLANS AND SPECIFICATIONS; APPROVAL BY VARIOUS AGENCIES**

All plans and specifications for public buildings must be approved by the state department of health, the division of fire and building safety, and other state agencies designated by statute. **(Confer with IC 36-1-12-10)**

**§ 177.25 COMPLETION OF PROJECT; PROCEDURE**

(A) The board must, within sixty (60) days after the completion of the public work project, file in the division of fire and building safety a complete set of final record drawings for the public work project. However, this requirement does not apply to a public work project constructed at a cost less than one hundred thousand dollars (\$100,000). In addition, the filing of the drawings is required only if the project involves a public building.

(B) The division of fire and building safety shall provide a depository for all final record drawings filed, and retain them for inspection and loan under regulated conditions. The fire prevention and building safety commission may designate the librarian of Indiana as the custodian of the final record drawings. The librarian shall preserve the final record drawings in the state archives as public documents. **(Confer with IC 36-1-12-11)**

**§ 177.26 FINAL PAYMENT; CLAIMS BY SUBCONTRACTORS, LABORERS, OR SUPPLIERS.**

(A) When a public work project is to be performed, the board shall withhold final payment to the contractor until the contractor has paid the subcontractors, material suppliers, laborers, or those furnishing services. However, if there is not a sufficient sum owed to the contractor to pay those bills, the sum owed to the contractor shall be prorated in payment of the bills among the parties entitled.

(B) To receive payment the subcontractor or subcontractors, material suppliers, laborers, or those furnishing services shall file their claims with the board within sixty (60) days after the last labor performed, last material furnished, or last service rendered by them, as provided in Section § 177.27 of this Chapter or IC 36-1-12-13.

(C) If there is no dispute between the parties claiming to be entitled to the money withheld, the board shall pay the claim from the money due the contractor and deduct it from the contract price. The board shall take a receipt for payment made on a claim.

(D) If there is a dispute between the parties claiming to be entitled to the money withheld, the board shall retain sufficient money to pay the claims until the dispute is settled and the correct amount is determined. However, the board may make a final and complete settlement with the contractor after thirty (30) days after the date of the completion and acceptance of the public work if the board is furnished with satisfactory evidence indicating the payment in full of all subcontractors, material suppliers, laborers, or those furnishing services.

(E) A claim form must be signed by an individual from the political subdivision or agency who is directly responsible for the project and who can verify:

- (1) the quantity of a purchased item; or
- (2) the weight or volume of the material applied, in the case of a road, street, or bridge project. **(Confer with IC 36-1-12-12)**

**§ 177.27 CONTRACT PROVISION FOR PAYMENT OF SUBCONTRACTORS, LABORERS, OR SUPPLIERS.**

A contract for public work must contain a provision for the payment of subcontractors, laborers, material suppliers, and those performing services. The board shall withhold money from the contract price in a sufficient amount to pay the subcontractors, laborers, material suppliers, and those furnishing services. **(Confer with IC 36-1-12-13)**

**§ 177.28 CONTRACTOR'S PAYMENT BOND FOR PUBLIC WORKS PROJECTS IN EXCESS OF \$200,000.**

(A) The Town, Department or appropriate political subdivision:

- (1) shall require the contractor to execute a payment bond to the appropriate political subdivision or agency, approved by and for the benefit of the political subdivision or agency, in an amount equal to the contract price if the cost of the public work is estimated to be more than two hundred thousand dollars (\$200,000); and
- (2) may require the contractor to execute a payment bond to the appropriate political subdivision or agency, approved by and for the benefit of the political subdivision or agency, in an amount equal to the contract price if the cost of the public work is estimated to be not more than two hundred thousand dollars (\$200,000).

The payment bond is binding on the contractor, the subcontractor, and their successors and assigns for the payment of all indebtedness to a person for labor and service performed, material furnished, or services rendered. The payment bond must state that it is for the benefit of the subcontractors, laborers, material suppliers, and those performing services.

(B) The payment bond shall be deposited with the board. The payment bond must specify that:

- (1) a modification, omission, or addition to the terms and conditions of the public work contract, plans, specifications, drawings, or profile;
- (2) a defect in the public work contract; or
- (3) a defect in the proceedings preliminary to the letting and awarding of the public work contract;

does not discharge the surety. The surety of the payment bond may not be released until one (1) year after the board's final settlement with the contractor.

(C) A person to whom money is due for labor performed, material furnished, or services provided shall, within sixty (60) days after the completion of the labor or service, or within sixty (60) days after the last item of material has been furnished, file with the board signed duplicate statements of the amount due. The board shall forward to the surety of the payment bond one (1) of the signed duplicate statements. However, failure of the board to forward a signed duplicate

statement does not affect the rights of a person to whom money is due. In addition, a failure to forward the statement does not operate as a defense for the surety.

(D) An action may not be brought against the surety until thirty (30) days after the filing of the signed duplicate statements with the board. If the indebtedness is not paid in full at the end of that thirty (30) day period the person may bring an action in court. The court action must be brought within sixty (60) days after the date of the final completion and acceptance of the public work. **(Confer with IC 36-1-12-13.1)**

**§ 177.29 CONTRACTS IN EXCESS OF \$200,000;ESCROW AND RETAINAGE;PERFORMANCE BONDS.**

The provisions set forth in IC 36-1-12-14 shall apply to public works contracts of the Town and its political subdivisions. At the discretion of the contractor, the retainage shall be held by the board or shall be placed in an escrow account with a bank, savings and loan institution, or the state as the escrow agent. The escrow agent shall be selected by mutual agreement between board and contractor or contractor and subcontractor under a written agreement among the bank or savings and loan institution and: (1) the board and the contractor; or (2) the subcontractor and the contractor. The board shall not be required to pay interest on the amounts of retainage that it holds under this section. **(Confer with IC 36-1-12-14)**

**§ 177.30 WAGE SCALE AND ANTIDISCRIMINATION PROVISIONS.**

(A) A contract by the board for public work must conform to the wage scale provisions of IC 5-16-7.

(B) A contract by the board for public work must conform with the antidiscrimination provisions of IC 5-16-6. The board may consider a violation of IC 5-16-6 a material breach of the contract, as provided in IC 22-9-1-10. **(Confer with IC 36-1-12-15)**

**§ 177.31 NECESSITY OF COMPLIANCE WITH PUBLIC WORKS LAW.**

A contract for public work by this Town or a political subdivision is void if it is not let in accordance with this chapter or IC 36-1-12. **(Confer with IC 36-1-12-16)**

**§ 177.32 ROAD OR STREET WORK CONTRACTS;TIMELY PAYMENT OF CLAIMS;FINAL PAYMENT;INTEREST FOR LATE PAYMENT.**

(A) A contract for road or street work must contain a provision for the timely payment of claims made by the contractor.

(B) Each contract must provide for final payment within one hundred twenty (120) days after final acceptance and completion of the contract. Final payment may not be made on any amount that is in dispute, but final payment may be made on that part of a contract or those amounts that are not in dispute.

(C) For each day after one hundred twenty (120) days, the board shall pay to the contractor interest for late payment of money due to the contractor. However, interest may not be paid for those days that the delay in payment is not directly attributable to the board. The annual percentage rate of interest that the board shall pay on the unpaid balance is twelve percent (12%). **(Confer with IC 36-1-12-17)**

**§ 177.33 CHANGE OR ALTERATIONS OF SPECIFICATIONS;CHANGE ORDERS.**

(A) If, in the course of the construction, reconstruction, or repair of a public work project, it becomes necessary to change or alter the original specifications, a change order may be issued to add, delete, or change an item or items in the original contract. The change order becomes an addendum to the contract and must be approved and signed by the board and the contractor.

(B) If a licensed architect or engineer is assigned to the public work project, the change order must be prepared by that person.

(C) A change order may not be issued before commencement of the actual construction, reconstruction, or repairs except in the case of an emergency. In that case, the board must make a declaration, and the board's minutes must show the nature of the emergency.

(D) The total of all change orders issued that increase the scope of the project may not exceed twenty percent (20%) of the amount of the original contract. A change order issued as a result of circumstances that could not have been reasonably foreseen does not increase the scope of the project.

(E) All change orders must be directly related to the original public work project.

(F) If additional units of materials included in the original contract are needed, the cost of these units in the change order must be the same as those shown in the original contract. **(Confer with IC 36-1-12-18)**

**§ 177.34 DIVIDING COST OF A SINGLE PUBLIC WORK PROJECT INTO TWO OR MORE PROJECTS PROHIBITED.**

(A) For purposes of this section, the cost of a public work project includes the cost of materials, labor, equipment rental, and all other expenses incidental to the performance of the project.

(B) The cost of a single public work project may not be divided into two (2) or more projects for the purpose of avoiding the requirement to solicit bids.

(C) A bidder or quoter or a person who is a party to a public work contract who knowingly violates this section commits the infraction described in IC 36-1-12-19 (c) and may not be a party to or benefit from any contract under this chapter for two (2) years from the date of the conviction.

(D) Any board member or officer of a political subdivision or agency who knowingly violates this section commits the infraction described in IC 36-1-12-19 (c). **(Confer with IC 36-1-12-19)**

**§ 177.35 TRENCH SAFETY SYSTEMS.**

(A) This section applies to a public works project that may require creation of a trench of at least five (5) feet in depth.

(B) IOSHA regulations 29 C.F.R. 1926, Subpart P, for trench safety systems shall be incorporated into the contract documents for a public works project.

(C) The contract documents for a public works project shall provide that the cost for trench safety systems shall be paid for:

- (1) as a separate pay item; or
- (2) in the pay item of the principal work with which the safety systems are associated. **(Confer with IC 36-1-12-20)**

**§ 177.36 PLUMBING INSTALLATIONS; PROOF OF LICENSURE.**

(A) A person who submits a bid for a public works contract under this chapter that involves the installation of plumbing must submit evidence that the person is a licensed plumbing contractor under IC 25-28.5-1.

(B) If a public works contract under this chapter is awarded to a person who does not meet the requirements of subsection (A), the contract is void. **(Confer with IC 36-1-12-21)**

**§ 177.37 SEVERABILITY.**

If any portion of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other portions or applications of this chapter which can be given effect without the invalid portions or applications and, to this end, the portions of this Chapter are severable.

**Section 3. Schedule of Implementation.** The provisions of this ordinance shall become and be in full force and effect from and after the date of its passage and adoption upon its signature by the executive in the manner prescribed by IC 36-5-2-10(a) and its publication in the manner provided by IC 36-1-5 and IC 5-3-1, if applicable.

Introduced and Filed on the 14<sup>th</sup> day of December 2009. Consideration on same day or at same meeting of introduction was not considered, all pursuant to IC 36-5-2-9.8.

**ADOPTED** this 19<sup>th</sup> day of July 2010 by the Town Council of the Town of Highland, Lake County, Indiana, by a vote of 4 in favor of adoption and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

2. **Proposed Enactment No. 2010-29:** An Enactment Authorizing and Approving a Wellness Initiative for the Municipal Workforce the Health and Wellness Program of the IACT Medical Trust, for its Participating Members, Establishing a Limited Group Health and Wellness Benefit for Municipal Employees and their Covered Spouses, and Establishing a Compensatory Incentive under the terms of the Compensation and Benefits Ordinance, Pursuant to IC 36-1-3 and other relevant Statutes.

Councilor Vassar introduced and moved the consideration of Enactment No. 2010-29 at the same meeting of introduction. Councilor Novak seconded. Upon a roll call vote, a

unanimous vote being necessary, there were four affirmatives and no negatives. The motion passed. The enactment could be considered.

Councilor Vassar moved the passage and adoption of Enactment No. 2010-29 at the same meeting of introduction. Councilor Novak seconded. Upon a roll call vote, a two-thirds vote being necessary, there were four affirmatives and no negatives. The motion passed. The enactment could be considered.

TOWN OF HIGHLAND  
ENACTMENT (ORDINANCE)  
ENACTMENT NO. 2010-29

AN ENACTMENT AUTHORIZING AND APPROVING A WELLNESS INITIATIVE FOR THE MUNICIPAL WORKFORCE THE HEALTH AND WELLNESS PROGRAM OF THE IACT MEDICAL TRUST, FOR ITS PARTICIPATING MEMBERS, ESTABLISHING A LIMITED GROUP HEALTH AND WELLNESS BENEFIT FOR MUNICIPAL EMPLOYEES AND THEIR COVERED SPOUSES, AND ESTABLISHING A COMPENSATORY INCENTIVE UNDER THE TERMS OF THE COMPENSATION AND BENEFITS ORDINANCE, PURSUANT TO IC 36-1-3 AND OTHER RELEVANT STATUTES.

WHEREAS, The Town Council is the fiscal and legislative body of the Town of Highland;

WHEREAS, IC 36-1-3-2 confers upon all local units the powers that they need for the effective operation of government as to local affairs;

WHEREAS, IC 36-1-3-6 (b)(1) prescribes that any such exercise of power shall be authorized through enactment of an ordinance passed by the legislative body; and

WHEREAS, IC 36-1-4, sections 14 and 15 provide in pertinent parts for the establishment of a system of employment for any class of employee and for fixing the level of compensation of its officers and employees; and

WHEREAS, IC 5-10-8 further authorizes Indiana political subdivisions to participate in and provide for certain compensation plans, and group benefits for its public workforce and officers, some of which have been duly adopted and established by ordinance of the Town; and

WHEREAS, IC 36-5, Chapters 3 and 4 provide additional authority and guidelines for fixing the level of compensation of officers and employees in towns; and

WHEREAS, The Town Council has determined that the establishment of a program for Health and Wellness services for its public workforce, consistent with Indiana Statutes, would be of benefit to support and carryout the public purposes of the municipality; and

WHEREAS, The Town Council now desires to authorize and establish such a program for medical infertility services for its public workforce on a limited basis;

NOW, THEREFORE, BE IT HEREBY ENACTED AND ORDAINED BY the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** That there is established for the municipality a program for Health and Wellness services for its public workforce pursuant to and consistent with the provisions of the relevant governing law;

**Section 2.** That *IACT Medical Trust along with its underwriter for group health insurance*, has presented a partial proposal to operate and provide a program of health and wellness services to the Town of Highland's municipal workforce and covered spouses, who are enrolled in either the PPO or the HDHP of the United Health Care group medical insurance plan, in which *IACT Medical Trust* will utilize and engage a support service provider to assist in the delivery of wellness services, particularly in performing biometric screening, subject to a co-pay for the primary covered employee and the Clerk-Treasurer to be paid by the IACT Medical Trust, and at the option of the local government, for the spouse of the covered employee and Clerk-Treasurer provided the spouse is also covered by the group health plan, for a \$44 co-pay, to be payable by the local government;

**Section 3.** That the Town Council hereby authorizes, accepts and approves the partial proposal as presented by *IACT Medical Trust along with its underwriter for group health insurance*, subject to a co-pay for the primary covered employee to be paid by the IACT Medical Trust, as generally described in the accompanying exhibit, for **biometric screening and related services**, which is incorporated and made a part of this enactment;

**Section 4.** That the Town Council further hereby authorizes and approves the payment of the identified co-payment, as part of the program, in the amount of \$44 for every spouse of a covered employee provided the spouse is also covered by the group health plan, who also participates in the **biometric screening and related services**, and finds and determines the co-payment to be a fee to be paid on behalf of the participants in the group health plan as employees by the Town of Highland as employer;



**Section 5.** (A) That the source of the funding for this program shall be the properly identified appropriation in Office of the Town Council in the Corporation General Fund which is established to support wellness expenses.

(B) That the Clerk-Treasurer shall take the steps necessary to carry out the administration of this program from the fund and account identified herein, including causing any additional appropriations hearing(s) that may be necessary, and properly encumbering the amount of money necessary to cover the liability likely to be incurred under the terms of this ordinance.

(C) That the payment of the fee by the municipality for the covered spouse of a covered employee and the Clerk-Treasurer is subject to sufficiency of appropriations available for expenditure pursuant to I.C. 6-1.1-18.

**Section 6(A)** That in order to incentivize and encourage greater participation by the employees of the municipality, a financial incentive as described in subdivision (B) of this section shall be authorized;

(B) That the provisions of the Compensation and Benefits Ordinance commonly known as the Municipal Employees handbook, particularly Section §6.03.04 is hereby amended to read as follows:

**§ 6.03.04 Employee Contribution for Certain Group Insurance Premiums**

All full-time employees and the Clerk-Treasurer shall share the cost of the group health premium, which are to be paid through a salary reduction (payroll deduction) taken as a pre-tax payment according to the terms of a duly authorized IRC Section 125 Plan for the Town of Highland. The amount of the shared premium shall be fixed by ordinance as may be passed from time to time. All employees and elected officers may elect to include dependents under their group coverage.

All full-time employees and the Clerk-Treasurer who elect to participate in the group health insurance shall pay the identified share of the group premium based upon the type of enrolled coverage selected by the employee or the clerk-treasurer for the duration of such coverage. The identified share of the group premium will be calculated as a percentage share of the annual gross base wage or salary of the covered employee, excluding longevity or overtime and then fixed as a flat amount to be paid bi-weekly, according to the following schedule:

**Employee Share of Health Insurance Premium**

Employee Single Coverage	1% of Base Pay
Employee With Children	2% of Base Pay
Employee With Spouse	2% of Base Pay
Family Coverage with Spouse and Children	3% of Base Pay

**Participants in Biometric Screening.** All full-time employees and the Clerk-Treasurer who elect to participate in the group health insurance and who have **participated in the biometric screening as part of the developing wellness program in 2010**, shall pay the identified share of the group premium based upon the type of enrolled coverage selected by the employee or the clerk-treasurer for the duration of such coverage, **at a reduced rate for coverage in the year 2011**. The identified share of the group premium will be calculated as a percentage share of the annual gross base wage or salary of the covered employee, excluding longevity or overtime and then fixed as a flat amount to be paid bi-weekly, according to the following schedule:

**Employee Share of Health Insurance Premium  
for Biometric Screening Participants**

Employee Single Coverage	.5% of Base Pay
Employee With Children	1.5% of Base Pay
Employee With Spouse	1.5% of Base Pay
Family Coverage with Spouse and Children	2.5% of Base Pay

(C) That the reduced employee group health premium shall be effective and apply to all paydays occurring on or from January 1, 2011 and before January 1, 2012. The amendment to Section 6.03.04 of the Compensation and Benefits Ordinance shall be expire on January 1, 2012.

**Section 7.** That this enactment is to be construed as a companion enactment complimentary to any ordinance or enactment passed from time to time establishing compensation and benefits, known as the Compensation and Benefits Ordinance and commonly promulgated as the Municipal Employees Handbook;

- (A) That this enactment shall be effective to the extent that it is not in conflict with Federal or State law;
- (B) That all other ordinances, enactments and resolutions related to the subject matter of this enactment and not in conflict with its provisions, remain in full force and effect;

**Section 8.** That this authorization shall be construed as an elective group benefit and not an entitlement;

**Section 9.** That this enactment shall become and remain in full force and effect from and after the date of its passage and adoption upon its signature by the executive as attested thereto by the clerk-treasurer, in the manner prescribed by IC 36-5-2-10(a).

Introduced and Filed on the 19<sup>th</sup> day of July 2010. Consideration on same day or at same meeting of introduction experienced a vote of 4 in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

**DULY ORDAINED and ADOPTED** this 19<sup>th</sup> Day of July 2010, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

**EXHIBIT on FILE**

3. **Proposed Ordinance No. 1466:** An Ordinance to Amend Chapter 31 of the Highland Municipal Code particularly modifying the terms related to Traffic Violations Agency Fund of the Town of Highland, pursuant to IC 36-1-3

Councilor Novak introduced and moved the consideration of Ordinance No. 1466 at the same meeting of introduction. Councilor Vassar seconded. Upon a roll call vote, a unanimous vote being necessary, there were four affirmatives and no negatives. The motion passed. The enactment could be considered.

Councilor Novak moved the passage and adoption of Ordinance No. 1466 at the same meeting of introduction. Councilor Vassar seconded. Upon a roll call vote, a two-thirds vote being necessary, there were four affirmatives and no negatives. The motion passed. The enactment could be considered.

**ORDINANCE NO. 1466  
of the  
TOWN of HIGHLAND, INDIANA**

**AN ORDINANCE TO AMEND CHAPTER 31 OF THE HIGHLAND MUNICIPAL CODE PARTICULARLY  
MODIFYING THE TERMS RELATED TO TRAFFIC VIOLATIONS AGENCY FUND OF THE TOWN OF  
HIGHLAND, PURSUANT TO IC 36-1-3**

**WHEREAS,** The Town Council is the fiscal body of the Town of Highland;

**WHEREAS,** IC 36-5-2-9 provides that the legislative body may adopt ordinances and resolutions for the performance of functions of the town; and,

**WHEREAS,** IC 36-1-3-4 provides that the powers units have under IC 36-1-3-4(b)(1) are listed in various statutes, further noting that these statutes do not list the powers that units have under IC 36-1-3-4 (b)(2); therefore, the omission of a power from such a list does not imply that units lack that power; and

**WHEREAS,** IC 36-1-3-4 further provides that a unit has all powers granted it by statute as well as all other powers necessary or desirable in the conduct of its affairs, even though not granted by statute;

**WHEREAS,** The Town of Highland by its Town Council did establish pursuant to its authority under IC 36-1-3 a *Traffic Violations Agency Fund*, codified under Chapter 31 of the Highland Municipal Code;

**WHEREAS**, The Town of Highland by its Town Council pursuant to its authority under IC 36-1-3 did later modify the previous fund, by establishing a *Traffic and Law Violations Agency Fund*, codified under Chapter 31 of the Highland Municipal Code;

**WHEREAS**, The Town Council has determined that it would be desirable to further amend the Municipal Code in order to modify the purposes and sources of funds for the Traffic and Law Violations Agency Fund;

**WHEREAS**, The Town Council has determined that it is necessary, desirable and of great public benefit, to modify the fund herein referenced to support and carryout the lawful public purposes of the municipality; and

**WHEREAS**, It would be and is in the best interest of the Town of Highland to enact an ordinance as an amendment to the Highland Municipal Code in order to further perfect the operation of the Town,

**NOW, THEREFORE, BE IT HEREBY ORDAINED BY** the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1** The Highland Municipal Code is hereby amended by repealing Section 31.01 of the Highland Municipal Code in its entirety and replacing with a as successor section to be numbered 31.01, which shall read as follows:

§ 31.01 TRAFFIC and LAW VIOLATIONS AGENCY FUND.

(A) There is hereby established a fiduciary agency fund to be known as the Traffic and Law Violations Agency Fund.

(B) The fund is a fiduciary or agency fund established to account for those fines and fees outlined in I.C. 33-19-5-2 and collected pursuant to I.C. 34-28-5-1 et seq. as payable offenses before a traffic violations clerk, which the unit holds in a trustee capacity, pursuant to the laws of the State of Indiana.

(C) **In addition, the fund is a fiduciary or agency fund to account for money received by EFT or ACH, in consequence of an arrest in which a bail or surety as defined by and pursuant to IC 35-33-8 et seq., is posted by credit card, and is to be held by the municipality in a temporary or custodial capacity;**

(D) In addition, the fund is a fiduciary or agency fund to account for money derived from seized and forfeited assets or the proceeds from the sale of seized and forfeited assets not otherwise covered by laws of the United States, or its executive departments, or derived from Indiana court orders, entered agreements and or judgments, which are the subject of a criminal investigation from which a seizure and forfeiture is occasioned, pursuant to I.C. 34-4-30.1 et seq. or I.C. 34-4-30.5 et sequitur, not covered by I.C. 36-8-6-4, and is to be held by the municipality in a temporary or custodial capacity;

(E) (1) Funds on deposit to this fund are custodial in nature, so expenditures from this fund shall be pursuant to and in support of the purposes set forth in subdivision (B), (C) and (D) of this section according to Laws of the State of Indiana.

(2) The establishment or the purposes of this fund shall not be in derogation of the lawful purposes or construed to exclude the lawful purpose or expenditure from such other funds for the same or similar purposes.

(F) The sources of money for the fund are the following:

- (1) Local payable fines associated with a moving traffic violation as set forth in an ordinance of the municipal corporation;
- (2) Infraction or ordinance violation court costs fees collected pursuant to I.C. 33-19-5-2(a);
- (3) Any additional fees outlined in and collected pursuant to I.C. 33-19-5-2(b);
- (4) Infraction deferral fees collected pursuant to I.C. 33-19-5-2(e) and I.C. 34-28-5-1 et seq.
- (5) Money derived from seized and forfeited assets or the proceeds from the sale of seized and forfeited assets not otherwise covered by laws of the United States, or its executive departments, nor covered by I.C. 36-8-6-4, but which are the subject of a criminal investigation from which a seizure and forfeiture is occasioned, pursuant to I.C. 34-4-30.1 et seq. or I.C. 34-4-30.5 et seq.;
- (6) Money derived from Indiana court orders, entered agreements and or judgments, associated with a criminal investigation from which a seizure and forfeiture is occasioned, pursuant to I.C. 34-4-30.1 et seq. or I.C. 34-4-30.5 et seq.;
- (7) **Money remitted to the municipal treasury by EFT or ACH, in consequence of a payment by credit card posted to provide a bail or surety as defined in and pursuant to IC 35-33-8 to**

**assure appearance at the appropriate legal proceeding, to ensure another person's physical safety, or to ensure the safety of the community.**

(G) Expenditures from the fund shall be made pursuant to the provisions of I.C. 33-19-5-2(c) or pursuant to an order of an Indiana Court, shall be considered appropriated and may be disbursed on approved claims allowed by the Town Council pursuant to I.C. 5-11-10, I.C. 36-5-4 and is hereby described an allowable advance expense according to the terms of I.C. 36-5-4-12(b)(13).

(H) (1) All unused and unencumbered monies do not revert to any fund but the fund created by this subchapter;

(2) The sources of revenue for this fund are hereby determined and shall be construed as being received from the dedicated funds of the state under its laws and as such, the unused and unencumbered balance of an appropriation does not revert at the end of the fiscal year to the fund created by this subchapter, pursuant to I.C. 36-1-8-6(d).

(I) **Nonreverting as to cash.** That all unused and unencumbered monies do not revert to any fund but the fund created by this ordinance. Further, the sources of revenue for this fund are hereby determined and shall be construed as being received from the dedicated funds of the state under its laws and as such, the unused and unencumbered balance of an appropriation does not revert at the end of the fiscal year to the fund created by this ordinance, pursuant to I.C. 36-1-8-6(d).

(J) The Clerk-Treasurer as municipal fiscal officer, is hereby directed and authorized to perform such duties and keep such accounts as to fulfill the purpose of the funds herein named and to carry-out the provisions of this section.

**Section 2.** (A) That the fund styled as the Traffic Violations Agency Fund or Traffic and Law Violations Agency Fund, in existence prior to and at the time of the adoption of this ordinance, shall continue and remain in effect after its adoption, and its shall be able to receive additional resources as described in this ordinance.

(B) That the fund styled as the Traffic Violations Agency Fund or Traffic and Law Violations Agency Fund, in existence prior to and at the time of the adoption of this ordinance, has continuity of existence. The cash on deposit to the credit of the fund established by Ordinance No. 1051 and amended by Ordinance No. 1443 as well as all its assets and liabilities, held prior to the passage and adoption of this ordinance, remains with the fund. Further, the cash on deposit to the credit of the fund is hereby found to be an approved source of money for the fund.

(C) That upon the report and advice of the Clerk-Treasurer, the Town Council now hereby finds and determines the following:

- (1) That at the time of the establishment of the fund established by Ordinance No. 1051, adopted December 16, 1996 and amended by Ordinance No. 1443, some of the resources that were to be transferred to and deposited with the fund, were instead left on deposit with Corporation General Fund, in its unappropriated cash balance;
- (2) That the resources that were to be transferred to and deposited with the fund and were instead left on deposit with Corporation General Fund, in its unappropriated cash balance totaled **Two hundred thirty-seven dollars and fifty cents (\$237.50)**; and
- (3) That pursuant to the provisions of Section 2 on this ordinance, the resources identified herein to be in the amount of Two hundred thirty-seven dollars and fifty cents (\$237.50) belongs to the fund established by this ordinance and should be properly transferred to and deposited with that fund;

**Section 3.** That the municipal fiscal officer is hereby authorized and instructed to transfer the amount of Two hundred thirty-seven dollars and fifty cents (\$237.50) from the unappropriated cash balance of the Corporation General Fund and deposit that amount into the fund styled as the Traffic and Law Violations Agency Fund. *Further, the transfer described in this section (Section 3) may be made in advance of allowance by the Town Council all pursuant to IC 36-5-4-12(b)(13).*

**Section 4.** This ordinance shall become and be in full force and effect from and after the date of its passage and adoption upon its signature by the executive in the manner prescribed by IC 36-5-2-10(a).

Introduced and Filed on the 19<sup>th</sup> day of July 2010. Consideration on same day or at same meeting of introduction attained 4 votes in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

**DULY ORDAINED and ADOPTED** this 19<sup>th</sup> day of July 2010 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor 0 opposed.

**TOWN COUNCIL of the TOWN of**

HIGHLAND, INDIANA

/s/Mark A. Herak, President (IC 36-5-2-10)

ATTEST:

/s/Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

*Notes: Ordinance No. 1051 was adopted 16 December 1996. Ord. 1443 Adopted 23 November 2009. Except where otherwise provided, those ordinances are superceded by this ordinance.*

4. **Works Board Order No. 2010-31:** An Order of the Works Board Authorizing, and Approving the Payment of Elective HONORARIA OR Stipends to the Several Bands and other Special GROUPS in Recognition and in Goodwill for their Appearance and public Performance in the Annual Highland Independence Day Twilight Parade. *Councilor Novak moved the passage and adoption of Works Board No. 2010-31. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The order was adopted.*

THE TOWN of HIGHLAND  
WORKS BOARD ORDER NO. 2010-31

AN ORDER AUTHORIZING, AND APPROVING THE PAYMENT OF ELECTIVE HONORARIA OR STIPENDS to the SEVERAL BANDS AND OTHER SPECIAL GROUPS in Recognition of and in Goodwill for their APPEARANCE AND PUBLIC PERFORMANCE IN THE ANNUAL HIGHLAND INDEPENDENCE DAY TWILIGHT PARADE.

**Whereas,** The Town Council for the Town of Highland is the Legislative and Fiscal Body of the Municipality as well as the works board pursuant to IC 36-1-2 et seq.,

**Whereas,** The Highland Community Events Commission, did organize and marshal the annual Independence Day Parade; and

**Whereas,** The Highland Community Events Commission did invite several middle school and high school marching bands as well as other special groups to participate in the parade;

**Whereas,** The Highland Community Events Commission has informed the Town Council that it has been customary for the payment of an honorarium or stipend to some of the participating marching bands as well as other special groups;

**Whereas,** The Highland Community Events Commission has further recommended, requested and identified appropriations in the Special Events Non Reverting Fund be authorized to support the payment of these honoraria and stipends;

**Whereas,** The Town Council has been reliably advised that the bands as well as other special groups perform as volunteers without remuneration, but do expend time, labor and creative process to support the Town of Highland's public parade and patriotic demonstration; and,

**Whereas,** Under its authority of IC 36-1-3, The Town passed and adopted Section §33.03 of the Highland Municipal Code which provides in pertinent part that the Town Council is authorized to budget and appropriate funds from the general fund of the town to pay the expenses incurred in promoting the best interests of the town and that such expenses may include, but not necessarily be limited to those incurred in developing relations with other units of government or any other expenses of civic or governmental nature deemed by the Town Council to be in the interests of the Town; and

**Whereas,** The Town Council has reviewed the matter, and now desires to make findings and determinations related to these recommendations and requests and to favor the recommendation and request of the Special Event Advisory Committee,

**Now Therefore Be it hereby Ordered** by the Town Council of the Town of Highland, Lake County, Indiana;

**Section 1** That the following bands and special groups which participated in the most recent **Independence Day Twilight Parade**, be paid an elective honorarium, in appreciation and recognition of their participation, as follows:

(A)	Orak Shriners	\$300.00
(B)	Ladies Oriental Shrine	\$300.00

(C) Highland High School Band \$300.00;

**Section 2.** That the Town Council hereby finds and determines that the forgoing activities and items of expense are lawful and proper expenses incurred in promoting the best interests of the Town as set forth in Section §33.03 of the Highland Municipal Code which reads as follows:

§ 33.03 AUTHORITY OF TOWN COUNCIL TO REIMBURSE TOWN OFFICIALS FOR CERTAIN EXPENSES.

*The Town Council is hereby authorized to budget and appropriate funds from the general fund of the town to pay the expenses of, and to reimburse, town officials for expenses incurred in promoting the best interests of the town. Such expenses may include, but not necessarily be limited to meals, decorations, memorabilia, awards, expenses incurred in interviewing job applicants, expenses incurred in promoting industrial, commercial, and residential development, expenses incurred in developing relations with other units of government, and any other expenses of civic or governmental nature deemed by the Town Council to be in the interests of the town.*

**Section 3.** That the Town Council further finds and determines that the activities and expenses as described herein, while not paid from the Corporation General Fund, are uses and expenditures consistent with the purposes of the **Special Events Non Reverting Fund, when proper appropriations are accordingly approved;**

**Section 4.** That the Clerk-Treasurer is hereby authorized and instructed to prepare sufficient accounts payable vouchers against the appropriate fund and account for the benefit of each of the several bands as well as special groups which participated in the most recent **Independence Day Twilight Parade**, as may be identified by the Community Events Commission, depicting the expense as an Honorarium or Stipend, in the amount herein fixed, and to take such other measures to carry-out the purposes and objects of this order.

**Section 5.** That any actions taken by public officers in advance and in anticipation of the passage and adoption of this order, are hereby ratified, all pursuant to IC 36-1-4-16

**Be it so ordered.**

**DULY, PASSED and ORDERED** by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 19<sup>th</sup> day of July 2010 having passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

5. Action of the Town Council as appointing authority to consider approval of the Annual Conflict of Interest Disclosure Statement filed by Ed Dabrowski, possessing ownership in CBL Consulting, Inc. which provides IT Services for the Municipality from time to time. Mr. Dabrowski is also a member of the Park and Recreation Board. This filing is pursuant to IC 35-44-1-3.
6. Action of the Town Council as appointing authority to consider approval of an Annual Conflict of Interest Disclosure Statement filed by John Mouratides, Sr., whose son, John Mouratides, Jr. possesses ownership in Powerhouse Construction which is contracted to repair and install siding and gutters on sheds near pump stations of the Municipality. Mr. Mouratides is also a the Fleet Division Supervisor. This filing is pursuant to IC 35-44-1-3.

*Councilor Zemen moved the approval of the conflict disclosure statements of Ed Dabrowski and John Mouratides as filed. Councilor Novak seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The disclosure statements were approved.*

7. **Resolution No. 2010-28:** An Exigent Resolution Providing for the Transfer of Appropriation Balances from and among Major Budget Classifications in the Special Events Non-reverting Fund as Requested by the Department Head (s) or Proper Officer (s) and Forwarded to the

Town Council for its action pursuant to IC 6-1.1-18-6. *Councilor Vassar moved and Councilor Novak seconded the passage and adoption of Resolution No. 2010-28. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The resolution was adopted.*

**TOWN OF HIGHLAND  
APPROPRIATION TRANSFER RESOLUTION  
RESOLUTION NO. 2010-28**

**AN EXIGENT RESOLUTION PROVIDING for the TRANSFER of APPROPRIATION BALANCES from and AMONG MAJOR BUDGET CLASSIFICATIONS in the SPECIAL EVENTS NON-REVERTING FUND as REQUESTED BY THE PROPER OFFICER AND FORWARDED to the TOWN COUNCIL for its ACTION PURSUANT TO IC 6-1.1-18-6.**

**WHEREAS**, It has been determined that certain exigent conditions have developed since adoption of the original budget and it is now necessary to transfer certain appropriations into different categories than were initially appropriated for the various functions of the **Special Events Non Reverting Fund**;

**NOW, THEREFORE BE IT RESOLVED** by the Town Council of the Town of Highland, Lake County, Indiana as follows:

**Section 1.** That for the expenses of said municipality, the following appropriations are hereby transferred and set apart out of the funds hereinafter named for the purposes specified, subject to the laws governing the same, such sums herein transferred unless otherwise stipulated by law;

**Section 2.** That it has been shown that certain existing unobligated appropriations of the **Community Events Commission Fund** which are not needed at this time for the purposes for which originally appropriated, and may be transferred to a category of appropriation in order to satisfy an existing need, as follows:

**SPECIAL EVENTS NON-REVERTING FUND**

Reduce Account:	#200.03 Misc. Supplies	<u>\$ 500.00</u>
	<i>Total 200 Series Reductions</i>	\$ 500.00
Reduce Account:	#386.09 Special Events Entertainment	<u>\$1,202.00</u>
	<i>Total 300 Series Reductions</i>	\$1,202.00
<b>Total of All Fund Decreases:</b>		<b>\$1,702.00</b>
Increase Accounts:	#111.01 Security / Sworn Officers	\$1,200.00
	#112.02 Medicare / Sworn Officers	<u>\$ 2.00</u>
	<i>Total 100 Series Increases</i>	\$1,202.00
Increase Account:	#386.08 Special Events Parades	<u>\$ 500.00</u>
	<i>Total 300 Series Increases</i>	\$ 500.00
<b>Total of All Fund Increases:</b>		<b>\$1,702.00</b>

**DULY RESOLVED and ADOPTED** this 19<sup>th</sup> Day of July 2010 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Mark Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

8. **Works Board Order No. 2010-27:** An Order Authorizing and Approving a First Change Order to the Construction Contract related to the Highland Street Reconstruction Project, all Pursuant to I.C. 36-1-12-18. *Councilor Vassar moved and Councilor Novak seconded the passage and adoption of Resolution No. 2010-28. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The works board was adopted.*

**The Town of Highland**

Order of the Works Board No. 2010-27

**An Order Authorizing and Approving a First Change Order to the Construction Contract related to the Highland Street Reconstruction Project, all Pursuant to I.C. 36-1-12-18.**

**Whereas**, The Town of Highland, through its Town Council, which is the Works Board of the Municipality pursuant to I.C. 36-1-2-24(3), has heretofore authorized and approved a public works project for street reconstruction and other improvements in the public roadway of Highland Street, with the project commonly known as the Highland Street Reconstruction Project; and

**Whereas**, The Town Council has heretofore awarded a contract to **Rex Construction, Incorporated** for the Project on March 22, 2010 in the amount of Two hundred Seventy-Four Thousand, Seven Hundred Eighty-eight Dollars and 73/100 Cents (\$274,788.73); and

**Whereas**, During the course of construction of the Project, it has become necessary to change or alter the original specifications of the project; and

**Whereas**, Garcia Consulting, a licensed engineer performing construction engineering services on this project, at the request of the Town, through the Public Works Director, has specifically identified and presented a description of such changes as one (1) proposed first addendum to the original construction contract with Rex Construction, Incorporated, particularly in support of costs associated with several bid items, which has a net effect of increasing the contract cost; and

**Whereas**, The Town of Highland, through its Town Council which is also the Board of Works, now desires to accept and issue the order for change as described.

**Now Therefore Be it hereby Ordered** by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board:

**Section 1.** That the First Addendum to the Construction Contract with Rex Construction, Inc. for the Highland Street Reconstruction Project as prepared by Garcia Consulting, Incorporated, a licensed engineer performing construction engineering services on this project, is hereby determined to be directly related to the original project and is hereby approved, adopted and ratified in each and every respect;

**Section 2.** That this first addendum is hereby ordered to be known as **Change Order No. 1**, issued to *increase the net cost* to the original agreement between the Town of Highland and Rex Construction Co., Incorporated in the amount of Twenty five thousand, ninety-seven Dollars and no/100 Cents (\$25,097.00), bringing the total value of the entire agreement with any and all change orders approved to date to Two hundred ninety-nine thousand, eight hundred eighty-five Dollars and 73/100 Cents (\$299,885.73);

**Section 3.** That as any additional units of materials included in the original contract become needed, the costs of these units in this change order be the same as those shown in the original contract, all pursuant to IC 36-1-12-18(f);

**Section 4.** That the total of all change orders issued that increase the scope of this project may not exceed twenty percent (20%) of the amount of the original contract, that original contract being Two hundred Seventy-Four Thousand, Seven Hundred Eighty-eight Dollars and 73/100 Cents (\$274,788.73) which may not exceed Three Hundred Twenty-nine thousand, seven hundred forty-six Dollars and 48/100 Cents (\$329,746.48), all pursuant to IC 36-1-12-18(d);

**Section 5.** That the proper officers hereby be and are authorized to execute the necessary documents with their signatures.

**Be it So Ordered**

**DULY, PASSED and ORDERED BY** the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 19<sup>th</sup> day of July 2010 having passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)



9. **Works Board Order No. 2010-26:** An Order Ratifying, Approving and Authorizing the Public Works Director to Enter into a Public Works Agreement with Illiana Remedial Action, Incorporated for demolition services, and with J.K. Environmental, Inc. for remedial services, pursuant to IC 36-1-12 et seq., and IC 5-22 and Chapter 31 of the Highland Municipal Code. *Councilor Novak moved and Councilor Zemen seconded the passage and adoption of Works Board Order No. 2010-26. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The works board order was adopted.*

**Town of Highland  
Board of Works  
Order of the Works Board 2010-26**

**AN ORDER RATIFYING, APPROVING AND AUTHORIZING THE PUBLIC WORKS DIRECTOR TO ENTER INTO A PUBLIC WORKS AGREEMENT WITH ILLIANA REMEDIAL ACTION, INCORPORATED FOR DEMOLITION SERVICES, AND WITH J.K. ENVIRONMENTAL, INC. FOR REMEDIAL SERVICES, PURSUANT TO IC 36-1-12 ET SEQ., AND IC 5-22 AND CHAPTER 31 OF THE HIGHLAND MUNICIPAL CODE**

**Whereas,** The Town Council for the Town of Highland is the Legislative and Fiscal Body of the Municipality, as well as its Works Board, pursuant to IC 36-1-2 et seq.;

**Whereas,** The Town Council for the Town of Highland heretofore acquired certain real estate, legally described as Lot 1 Block 1 of Highland Park Manor in the Town of Highland, Lake County, Indiana, more commonly known as 3315 Ridge Road, and Lot 2 Block 1 of Highland Park Manor in the Town of Highland, Lake County, Indiana, more commonly known as 3309 Ridge Road in order to provide for the future expansion of the Town Hall campus located at 3333 Ridge Road; and

**Whereas,** The Town Council for the Town of Highland previously determined to retain the land but to take steps to dispose of the real improvement (the houses) that are on the property;

**Whereas,** Pursuant to IC 36-1-11-3, disposal of real property is subject to the approval of the municipal executive and the municipal fiscal body, if the property to be disposed has an appraised value of \$50,000;

**Whereas,** Pursuant to IC 36-1-11-3, the approval of the disposal may not be granted without conducting a public hearing after giving notice under IC 5-3-1; and

**Whereas,** Pursuant to IC 36-1-11-3 (b), the Town Council President as municipal executive, designated the Highland Town Council as the municipal board or commission to give notice, conduct the hearing and notify the executive of its recommendation;

**Whereas,** The Town Council conducted a public hearing on June 8, 2009, regarding the disposal of the real improvements while retaining the land located at 3315 Ridge Road and 3309 Ridge Road, following the hearing adopted Works Board Order No. 2009-18, which recommended to the Town Council President that the real improvements as herein described be properly sold, pursuant to IC 36-1-11 et seq; and,

**Whereas,** The Town Council President, as municipal executive, accepted the recommendation of the Works Board and authorized and approved the disposal of the real improvements located at 3315 Ridge Road and 3309 Ridge Road, while retaining the land located at those same addresses, pursuant to IC 36-1-11-3 (b) (1); and,

**Whereas,** The Town Council, as the fiscal body, further authorized and approved the disposal of the real improvements located at 3315 Ridge Road and 3309 Ridge Road, while retaining the land located at those same addresses, pursuant to IC 36-1-11-3 (c) (1); and,

**Whereas,** The Town Council President and the Town Council also designated the Public Works Director as the disposing agent, directing him to take the proper and necessary steps provided in IC 36-1-11-4, as he may determine, to carry out the objects and purposes of disposing the property, pursuant to the Works Board Order No. 2009-18; and

**Now Therefore Be it Ordered** by the Town Council of the Town of Highland, Lake County, Indiana as follows:

**Section 1.** That the Town Council, as the Works Board, makes the following findings and determinations:

- (A) That the Public Works Director, as disposing agent, did seek to dispose of the houses as improvements, pursuant to IC 36-1-11-4, but no meaningful offer was received;
- (B) That the Public Works Director, recommended that owing to prevailing market conditions making a low likelihood of a successful sale of the homes, pursuant to IC 36-1-11-4, demolition and removal services should be sought to remove the homes from the real estate;
- (C) That the Public Works Director, as purchasing agent, deemed it desirable to solicit bids, pursuant to IC 36-1-12 et seq., prepared bid specifications, published notice pursuant to IC 5-3-1, and received and read aloud the

following bids at the Town Hall on 24<sup>th</sup> May 2010 for demolition services of the houses located at 3309 and 3315 Ridge Road:

- |     |   |                         |
|-----|---|-------------------------|
| (1) | Biesen Excavating, Inc.<br>521 East Ridge Road, Griffith, Indiana 46319       | <b>Bid: \$19,632.00</b> |
| (2) | Illiana Remedial Action, Inc.<br>6550 Osborn Ave., Hammond, Indiana 46320     | <b>Bid: \$19,620.00</b> |
| (3) | TRI, Inc.<br>5020 Railroad Avenue., East Chicago, Indiana 46312               | <b>Bid: \$27,110.00</b> |
| (4) | Wm. Walters Excavating, Inc.<br>854 Kennedy Ave., Schererville, Indiana 46375 | <b>Bid: \$21,572.00</b> |

(D) That the bidders herein named provided the appropriate bid surety and signed non-collusion affidavit.

**Section 2.** That the Works Board hereby finds and determines that the bid of *Illiana Remedial Action, Inc.*, in the amount of nineteen thousand, six hundred twenty dollars and no cents (\$19,620.00) is the lowest, most responsible, and responsive bidder, all pursuant to IC 36-1-12 et seq.;

**Section 3.** That the Public Works Director is hereby directed and authorized to issue a notice to proceed to *Illiana Remedial Action, Inc.*, and **notify the company it has been awarded a public works contract** for demolition services and removal of the houses located at the 3309 and 3315 Ridge Road, Highland for the contract price of **nineteen thousand, six hundred twenty dollars and no cents (\$19,620.00)**;

**Section 4.** That the **Public Works Director** is hereby instructed to issue a purchase order to *Illiana Remedial Action, Inc.*, drawn on the proper account of the **Rainy Day Fund**, and to execute all documents necessary to implement the purchase thereof;

**Section 5.** That, upon the advice of the Public Works Director, the Works Board hereby finds and determines that it is proper to remediate asbestos composed material from the furnace in the basement of the house at 3309 Ridge Road;

**Section 6.** That, upon the advice of the Public Works Director, the Works Board hereby finds and determines that the proposal of *J & K Environmental, Inc.*, to perform asbestos materials removal from the furnace in the basement of the house at 3309 Ridge Road for the amount of one thousand, five hundred dollars and no cents (\$1,500.00) is a small purchase that may be obtained in open market without resort to seeking quotes or bids, all pursuant to IC 5-22 and Section § 31.20 (G) (2) of the Highland Municipal Code;

**Section 7.** That the Public Works Director, as purchasing agent pursuant to Section § 31.19 (D) (1) of the Highland Municipal Code, is hereby further authorized and instructed to **issue a purchase order to J & K Environmental, Inc.**, drawn on the proper account of the **Rainy Day Fund**, and to **execute all documents necessary to implement the contract for services**.

**Be it so Ordered.**

**DULY, PASSED and ORDERED** by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 19<sup>th</sup> day of July 2010 having passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

**Attest:**

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

**10. Works Board Order No. 2010-28:** An Order Finding and Determining Certain Personal Property of the Municipality as No longer needed or Unfit for the Purposes for which originally acquired and further Authorizing and Approving the Disposal of said property to the Highland Historical Society, As an action to aid historical programs of the Town, pursuant to IC 36-10-2-4 and IC 5-22-22-1 (c) (7). *Councilor Vassar moved and Councilor Novak seconded the passage and adoption of Works Board Order No. 2010-28. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The works board order was adopted.*

THE TOWN of HIGHLAND  
BOARD of WORKS ORDER NO. 2010-28

AN ORDER FINDING and DETERMINING CERTAIN PERSONAL PROPERTY of the MUNICIPALITY as NO LONGER NEEDED or UNFIT for the PURPOSES for WHICH ORIGINALLY ACQUIRED and FURTHER AUTHORIZING and APPROVING THE DISPOSAL of said PROPERTY TO THE HIGHLAND HISTORICAL SOCIETY, AS AN ACTION TO AID HISTORICAL PROGRAMS OF THE TOWN, PURSUANT TO IC 36-10-2-4 AND IC 5-22-22-1 (C) (7).

**WHEREAS,** The Town Council for the Town of Highland is the Works Board of the Municipality pursuant to IC 36-1-2-24(3) and

**WHEREAS,** The Town Council has been advised by the proper officers that there are items of personal property owned by or in the possession of the municipality for at least one (1) year or longer that either are no longer needed or unfit for the purposes originally acquired; and

**WHEREAS,** The proper officers have been advised recommended that a disposal of the personal property be authorized, without resort to the provisions of IC 5-22-22 and IC 5-22-22-1 (c) (7) states that IC 5-22-22 does **not** apply to the sale or lease of property by a unit (as defined in IC 36-1-2-23) to an Indiana nonprofit corporation organized for educational, literary, scientific, religious, or charitable purposes that is exempt from federal income taxation under Section 501 of the Internal Revenue Code or the sale or letting of that property by the nonprofit corporation;

**WHEREAS,** IC 36-10-2-4 expressly confers upon the municipality the power to establish, aid, maintain, and operate libraries and museums, cultural, historical, and scientific facilities and programs, and community restitution or service facilities and programs;

**WHEREAS,** The Town Council now desires to favor the recommendation and take those steps necessary to authorize and approve the disposal of this certain personal property of the municipality to the Highland Historical Society, pursuant to the applicable law,

**NOW, THEREFORE, BE IT ORDERED** by the Town Council of the Town of Highland, Lake County, Indiana:

**Section 1.** That the Town Council of the Town of Highland hereby finds and determines the following:

(a) That the Highland Historical Society has transmitted an electronic missive requesting the Town to set aside for the society and its museum, at least one of the special event banners, particularly acquired for display on lampposts of the municipality to promote the centenary of the Municipality's incorporation;

(b) That the special event banners, particularly acquired for display on lamp posts of the municipality to promote the centenary of the Municipality's incorporation are articles of personal property that will be no longer needed or unfit for the purposes for which they were intended;

(c) That these articles of personal property have each an estimated total value of **far less than** one thousand dollars (\$1,000);

(d) That disposing of two (2) centennial banners, delivering them without further consideration to the Highland Historical Society, particularly will be an action that supports and aids the historical museum and the historical program of the community, all expressly authorized by IC 36-10-2-4; and,

(e) That the Highland Historical Society, Inc., is organized as *an Indiana nonprofit corporation organized for educational, literary, scientific, religious, or charitable purposes that is exempt from federal income taxation under Section 501 of the Internal Revenue Code*;

**Section 2.** That the proper officers of the municipality are hereby authorized and instructed to cause a lawful disposal of the personal property identified in this Order, without any fee or consideration, without resort to IC 5-22-22, to the Highland Historical Society, Inc., *at an appropriate time following the use of the banners or following the conclusion of the programs and events observing the centennial of the incorporation of the Town of Highland*;

**Section 3.** That the proper officers be authorized and instructed to execute this purposes and objects of this order.

**BE IT SO ORDERED.**

**DULY ADOPTED and ORDERED BY** the Town Council of the Town of Highland, Lake County, Indiana, acting as the Board of Works, this 19<sup>th</sup> day of July 2010 having passed by a vote of 4 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA

Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1;IC 36-5-6-5)

11. **Works Board Order No. 2010-29:** An Order Approving and Authorizing the Entry into a Service and License Agreement with Software Maintenance and Support Services, under §31.22 of the Municipal Code, in the annual amount of \$1,833. *Councilor Zemen moved and Councilor Vassar seconded the passage and adoption of Works Board Order No. 2010-29. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The works board order was adopted.*

**Town of Highland  
Board of Works  
Order of the Works Board 2010-29**

**AN ORDER APPROVING AND AUTHORIZING THE ENTRY INTO A SERVICE AND LICENSE AGREEMENT  
WITH SOFTWARE MAINTENANCE AND SUPPORT SERVICES, UNDER §31.22 OF THE MUNICIPAL CODE.**

**Whereas,** The Town of Highland Office of Clerk-Treasurer, in performing the functions and duties of the office, has obtained certain software licensed to it by ACOM Solutions, Inc., to provide computer support check writing, various licenses/permits and receipt tracking and special printing functionality, in order to better carryout the functions of the office and the municipality; and

**Whereas,** The IT Director, CBL Consulting, Inc., has recommended that instead of continuing to secure and annual license agreement with ACOM Solutions, Inc for the services it now provides, rather to consider a multi-year agreement provided there is a savings, and has secured a quote from the current provider, for current licensing and support services in the annual amount of \$1,833, for a period of three years, for a total cost of \$5,499, representing a twenty percent (20%) discount to the current annual price; and

**Whereas,** It is noted that the annual license agreement with ACOM Solutions, Inc for the services it now provides, is offered at an annual rate of \$2,292.00, that if renewed annually over the same three year period, would cost \$ 6,876;

**Whereas,** The Town Council as the Works Board of the Municipality, pursuant to §31.17(A) and (B) of the Municipal Code serves as purchasing agency for the executive departments of the municipality, and the utilities when costs are to be shared; and

**Whereas,** The agreement is for a term of greater than one year, pursuant to §31.18(C) of the Municipal Code, requires the express approval of the purchasing agency; and

**Whereas,** The Highland Municipal Code Section §31.22 provides that the purchase of services may in a manner that the purchasing agency determines to be reasonable and appropriate; and

**Whereas,** The payments will be supported by an appropriation in the Information and Communications Technology Fund; and

**Whereas,** The Town Council now desires to approve and authorize the Clerk-Treasurer to enter a service agreement pursuant to the terms stated herein.

**Now Therefore Be it Ordered** by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board of Municipality as follows:

**Section 1.** That the Clerk-Treasurer is hereby directed and authorized to execute the necessary documents to support the acceptance and approval of the ACOM Solutions Agreement for licensing and software support services, for a term of three years, in the annual amount of \$1,833, with a total amount of \$5,499;

**Section 2.** That purchase agency believes the manner of this purchase of service is reasonable and appropriate, as are the charges for the term of three years.

**Section 3.** That the Clerk-Treasurer is authorized and directed to execute the agreement and any additional documents in order to implement the enhancements to services.

**Be it So Ordered.**

**DULY, PASSED, ADOPTED and Ordered** by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 19<sup>th</sup> day of July 2010 having passed by a vote of 4 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA

Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

12. **Works Board Order No. 2010-30:** An Order Authorizing, Approving and Accepting a Storm Sewer Utility Easement Agreement with Mr. And Mrs. Steven D. and Diane L. Neel, as Grantor and the Town of Highland as Grantee. *Councilor Novak moved and Councilor Vassar seconded the passage and adoption of Works Board Order No. 2010-30. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The works board order was adopted.*

The Town of Highland  
ORDER of the WORKS BOARD NO. 2010-30

**An Order Authorizing, Approving and Accepting a Storm Sewer Utility Easement Agreement with Mr. And Mrs. Steven D. and Diane L. Neel, as Grantor and the Town of Highland as Grantee**

**WHEREAS**, Mr. And Mrs. Steven D. and Diane L. Neel, (hereinafter sometimes described as Grantor) have a real property interest in certain real property located in the Town of Highland, Lake County, Indiana, which is legally described as follows:

- Lot 21 of Block 1 in the Fifth Street Estates First addition to the Town of Highland, Lake County, Indiana as recorded in Plat Book 31, page 57, in the Office of the Recorder, Lake County, Indiana.

**WHEREAS**, The Grantor wishes to grant to the Grantee, the Town of Highland, governed by and through its Town Council as the Works Board of the Town, a **utility easement** for the purpose of installing a storm sewer, which is legally described as follows:

The west five feet (5') of Lot 21 of Block 1 in the Fifth Street Estates First addition to the Town of Highland, Lake County, Indiana as recorded in Plat Book 31, page 57, in the Office of the Recorder, Lake County, Indiana

**WHEREAS**, The Town of Highland, through its Town Council, acting as the Works Board (hereinafter sometimes referred to as Grantee), has determined that a utility easement for this storm sewer and all other appurtenances in, under, over and across the above described real estate would be of great public benefit and utility;

**NOW, THEREFORE, BE IT HEREBY ORDERED**, that the Utility Easement Agreement between Mr. And Mrs. Steven D. and Diane L. Neel, as Grantor, and the Town of Highland, as Grantee, incorporated herein by reference, is hereby approved and ratified in each and every respect.

**BE IT FURTHER ORDERED** that the Town Council President is hereby authorized to execute the Agreement by his signature as thereto attested by the Clerk-Treasurer.

**Be it So Ordered.**

**DULY, PASSED, ADOPTED and ORDERED** by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 19<sup>th</sup> day of July 2010 having passed by a vote of 4 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA

Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

13. **Proposed Appropriation Enactment No. 2010-31:** An Enactment Appropriating Additional Monies in Excess of the Annual Budget From Monies Received as a Grant from the State or Federal Government, pursuant to I.C. 6-1.1-18-7.5, I.C. 36-5-3-5 et seq.

Councilor Vassar introduced and moved the consideration of Enactment No. 2010-31 at the same meeting of introduction. Councilor Novak seconded. Upon a roll call vote, a unanimous vote being necessary, there were four affirmatives and no negatives. The motion passed. The enactment could be considered.

Councilor Vassar moved the passage and adoption of Enactment No. 2010-31 at the same meeting of introduction. Councilor Novak seconded. Upon a roll call vote, a two-thirds vote being necessary, there were four affirmatives and no negatives. The motion passed. The enactment could be considered.

TOWN OF HIGHLAND  
APPROPRIATION ENACTMENT  
ENACTMENT NO. 2010-31

**An Enactment Appropriating Additional Monies in Excess of the Annual Budget From Monies Received as a Grant from the State or Federal Government, pursuant to I.C. 6-1.1-18-7.5, I.C. 36-5-3-5 et seq.**

**WHEREAS, IC 6-1.1-18-7.5** provides that notwithstanding any other law, the appropriating body of a political subdivision may appropriate any funds received as a grant from the state or the federal government without using the additional appropriation procedures under IC 6-1.1-18-5, if the funds are provided or designated by the state or the federal government as a reimbursement of an expenditure made by the political subdivision;

**WHEREAS, The Town Council** has been informed of the receipt of funds from a grant of the **Federal High Intensity Drug Traffic Area**, particularly represented on Clerk-Treasurer's receipt numbers 024499, 025499, and 025925, in the total amount of \$ 4,528.51 as reimbursement in support of overtime costs for detailed personnel;

**WHEREAS, The Town Council** has been further informed that these funds were provided or designated by the state or the federal government as a reimbursement of an expenditure made by the political subdivision;

**NOW, THEREFORE BE IT ENACTED** by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** That for the actual overtime personnel expenses of said municipality related to the G.R.I.T funded by **Federal High Intensity Drug Traffic Area** to reimburse the municipality for its actual over time expenses incurred by the assigned person, the following additional sums of money, received as a grant from the state or the federal government and designated as a reimbursement of an expenditure made by the political subdivision, are hereby appropriated and ordered set apart out of the funds herein named:

CORPORATION GENERAL FUND

**Metropolitan Police Department**

Increase Account: #111.30 Sworn Overtime	<u>\$ 4,528.51</u>
Total 100 Series Increases	<u>\$ 4,528.51</u>
<b>Total of All Fund Increases:</b>	<b>\$ 4,528.51</b>

**Section 2.** That in satisfaction and for the purposes of the provisions set out in I.C. 36-5-2-9.6, I.C. 36-5-3-5, I.C. 36-5-4-2, this enactment shall be deemed properly filed and introduced before the Town Council at a regular or special meeting, properly called and convened pursuant to I.C. 5-1.5-14 *et seq.*

Introduced and Filed on the 19<sup>th</sup> day of July 2010. Consideration on same day or at same meeting of introduction sustained a vote of 4 in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

**DULY ENACTED AND ADOPTED** this 19<sup>th</sup> Day of July 2010, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

14. The Town Clerk-Treasurer reported the filing of Petition by the Parks and Recreation Board by its Superintendent, 2450 Lincoln Street, Highland, requesting the vacation of an easement, pursuant to IC 36-7-3-12. The Town Clerk-Treasurer further reported that he was by statute to set for a hearing within 30 days from filing. No action was taken.

15. Action to approve overtime payments for Exempt Salaried Personnel, pursuant to Section 3 of Ordinance No. 1375 the Wage and Salary Ordinance, as amended and Section §4.03.01 of the Compensation and Benefits Ordinance. This waives the provisions of Section § 2.01 of the Compensation and Benefits Ordinance.

15.1 The Metropolitan Police Chief requests favorable action for R. Potesta, who is an exempt salaried employee, and investigations division commander, in the amount of \$222.12, for work associated with special event and an additional amount of \$100 for work associated with Highland Grove Mall Special Security.

15.2 The Metropolitan Police Chief requests favorable action for P. Hojnicky, who is an exempt salaried employee, and Metropolitan Police Chief, in the amount of \$795.93, for work associated with special event.

Councilor Zemen moved to approve the overtime pay for R. Potesta and Police Chief Hojnicky. Councilor Novak seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The overtime was approved.

15.3 The Metropolitan Police Chief requests favorable action for P. Vassar, who is an exempt salaried employee, Assistant Police Chief and Patrol Division Commander, in the amount of \$100.00, for work associated with Highland Grove Mall Special Security.

Councilor Zemen moved to approve the overtime pay for Pat Vassar. Councilor Novak seconded. Upon a roll call vote, there were three affirmatives, no negatives and one abstention. With Councilors Zemen, Novak and Herak voting in the affirmative and Councilor Vassar abstaining, the motion passed. The overtime was approved. *(Councilor Vassar indicated that he abstained based upon avoiding the appearance of a conflict of interest as Pat Vassar is Councilor Vassar's brother.)*

16. **Works Board Order No. 2010-25:** An Order Approving and Authorizing the Proper Officer to Enter into a Purchase with CBL Associates for Dell Optiplex 780 Personal Desktop Computers, defining this as a Special Purchase under §31.20(I)(6) & (13) of the Municipal Code. *Councilor Novak moved and Councilor Zemen seconded the passage and adoption of Works Board Order No. 2010-25. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The works board order was adopted.*

**Town of Highland  
Board of Works  
Order of the Works Board 2010-25**

**AN ORDER APPROVING AND AUTHORIZING THE PROPER OFFICER TO ENTER INTO A PURCHASE WITH CBL ASSOCIATES FOR DELL OPTIPLEX 780 PERSONAL DESKTOP COMPUTERS, DEFINING THIS AS A SPECIAL PURCHASE UNDER §31.20(I)(6) & (13) OF THE MUNICIPAL CODE.**

**Whereas,** The Town of Highland Office of Clerk-Treasurer, as part of its public duties, has responsibility for the preservation, maintenance, generation of and public access to certain public records of the Town Legislative Body and of the municipality, except where another office by law is specifically directed to perform this function, and, from time to time, it is necessary to purchase and or lease materials and supplies in order to better carryout the functions of the department; and

**Whereas,** The Town of Highland, through its several departments, as part of its public duties, utilizes desktops computers as part of carrying out its public services and related duties in the Town of Highland; and

**Whereas,** The IT Director has determined a need to obtain certain computer equipment and software supplies and has secured a quote from CBL Associates for the purchase of twenty-one (21) Dell Optiplex 780 Desktops Computers at the unit price of \$995 each, in the total amount of \$20,895.00; and

**Whereas,** The Town Council as the Works Board of the Municipality, pursuant to §31.17(A)(9) of the HMC serves as purchasing agency for the Office of the Clerk-Treasurer; and

**Whereas,** The Town Council as the Works Board of the Municipality, pursuant to §31.17(A)(3) of the HMC serves as purchasing agency for the Office of the Clerk-Treasurer and the Metropolitan Police Department; and

**Whereas,** The amount of the purchase exceeds ten thousand (\$10,000) and, pursuant to §31.18(C) of the HMC, requires the express approval of the purchasing agency; and

**Whereas,** The Clerk-Treasurer, pursuant to §31.19(D)(10), serves as the Purchasing Agent for the Office of the Clerk-Treasurer and all executive offices or departments; and

**Whereas,** The single payment will be supported by an approved existing appropriation in the Municipal Cumulative Capital Fund and other lawful funds of the unit; and

**Whereas,** The Town Council now desires to approve and authorize the proper officer to enter a purchase agreement pursuant to the terms stated herein.

**Now Therefore Be it Ordered** by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board of Municipality:

**Section 1.** That the proper officer is hereby directed and authorized to purchase twenty-one (21) Dell Optiplex 780 Desktop Computers at the unit price of \$995 each, in the total amount of \$20,895.00, according to the standing retention and replacement schedule, to be used in the Office of the Clerk-Treasurer, Public Works, Building and Inspection, Parks and Recreation, Metropolitan Police Department and the Fire Department;

**Section 2.** That the proper officer is hereby directed and authorized to purchase the forgoing units as a single order of twenty-one (21) Dell Optiplex 780 Desktop Computers at the unit price of \$995 each, in the total amount of **\$20,895.00** in order to obtain the group discount offered for the total purchase;

**Section 3.** That the Town Council as Works Board now finds and determines that this purchase is a qualified special purchase as the market structure for these items are based on price but the governmental body is able to receive a dollar or percentage discount of the established price, and there exists a unique opportunity to obtain supplies or services at a substantial savings to the governmental body, all pursuant to Section § 31.20(I) (6) and (I) (13) as well as IC 5-22-10 et sequitur;

**Section 4.** That the Town Council as Works Board further finds and determined there are sufficient and available appropriations balances on hand to support the purchase to the credit of the Municipal Cumulative Capital Development Fund, pursuant to IC 5-22;

**Section 5.** That the Clerk-Treasurer is authorized and directed to execute the purchase agreement and any additional documents in order to implement the purchase and licensing.

**Be it So Ordered.**

**Duly, Passed, Adopted and Ordered** by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 19<sup>th</sup> day of July 2010 having passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

*Attest:*

Michael W. Griffin, IAMC/MMC/CPFA

**Clerk-Treasurer** (IC 33-16-4-1; IC 36-5-6-5)

17. **Works Board Order No. 2010-33:** An ORDER AUTHORIZING and Approving a fourth and fifth change order to the construction Contract SR-31459 related to the Cline Avenue Reconstruction Project, Northern Terminus at Ridge Road and southern Terminus at 45<sup>th</sup> Avenue, a Federal Aid Highway Project, all pursuant to IC 36-1-12-18. *Councilor Zemen moved and Councilor Novak seconded the passage and adoption of Works Board Order No. 2010-*



33. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The works board order was adopted.

THE TOWN of HIGHLAND  
ORDER of the WORKS BOARD NO. 2010-33

AN ORDER AUTHORIZING and APPROVING A FOURTH AND FIFTH CHANGE ORDER to the CONSTRUCTION CONTRACT SR-31459 RELATED to the CLINE AVENUE RECONSTRUCTION PROJECT, NORTHERN TERMINUS AT RIDGE ROAD AND SOUTHERN TERMINUS AT 45<sup>TH</sup> AVENUE, A FEDERAL AID HIGHWAY PROJECT, ALL PURSUANT TO IC 36-1-12-18

**Whereas**, The Town of Highland, through its Town Council, which is the Works Board of the Municipality pursuant to I.C. 36-1-2-24(3), has heretofore authorized and approved a public works project for street construction and other improvements in the public roadway through the assistance of federal highway aid funds, with the project commonly known as the **Cline Avenue Reconstruction Project**;

**Whereas**, In the course of the construction, reconstruction, or repair of the Cline Avenue Reconstruction Project, it has become necessary to change or alter the original specifications of the project;

**Whereas**, First Group Engineering (FGE), Incorporated, a licensed engineer performing construction engineering services on this project, at the request of the Town through its Public Works Director, has specifically identified and presented a description of such changes as two (2) proposed addenda to the original construction contract, to be known as the fourth and fifth addenda; and

**Whereas**, Addendum four extends the "intermediate" completion date by a total of 44 days (November 28, 2010) and the final completion date by a total 20 days (July 14, 2011) due to the delay in the issuance of the Notice to Proceed (20 days) and due to the work stoppage caused by a job action (strike) of the Teamsters Local 142 (24) days, which is now November 28, 2010; and

**Whereas**, Addendum five establishes a new "intermediate" completion date, the date on which Cline Avenue shall be open to two-way traffic, of August 15, 2010 and assesses liquidated damages in the amount of \$2,000 per day for each day past the "intermediate" completion date that Cline Avenue is closed to two-way traffic; and

**Whereas**, There are sufficient and available appropriations balances on hand to support any additional payments, if required, under the agreement, pursuant to IC 5-22;

**Whereas**, The Town of Highland, through its Town Council which is also the Board of Works, now desires to accept and issue the order for change as described;

**Now Therefore Be it hereby Ordered** by the Town Council of the Town of Highland, Lake County, Indiana;

**Section 1.** That the Fourth and Fifth Addendum to the Construction Contract **SR-31459** for the **Cline Avenue Reconstruction Project**, as prepared by First Group Engineering, Incorporated, a licensed engineer performing construction engineering services on this project, is hereby determined to be directly related to the original project and is hereby approved, adopted and ratified in each and every respect;

**Section 2.** That this Fourth and Fifth addendum is hereby ordered to be known as **Change Order No. 4 and Change Order No. 5**, issued to add net increases to the original agreement in the net increased amount of zero dollars and 00/100 cents (\$0), bringing the total value of the entire agreement with any and all change orders approved to date to four million, one hundred fifty-seven thousand, five hundred fifty-one dollars and eight cents (\$4,176,005.91) of which twenty percent (20%) is borne locally and eighty-percent (80%) is borne by the Indiana Department of Transportation);

**Section 3.** That as any additional units of materials included in the original contract become needed, the cost of these units in this change order be the same as those shown in the original contract, all pursuant to IC 36-1-12-18(f);

**Section 4.** That the total of all change orders issued that increase the scope of this project may not exceed twenty percent (20%) of the amount of the original contract, that original being four million, one hundred forty-five thousand, seven hundred seventy-nine dollars and thirty-one cents (\$4,145,779.31) which may not exceed four million, nine hundred seventy-four thousand, nine hundred thirty-five dollars and seventeen cents (\$4,974,935.17) all pursuant to IC 36-1-12-18(d);

**Section 5.** That the proper officers hereby be and are authorized to execute the necessary documents with their signatures.

**Be it So Ordered.**

**DULY, PASSED and ORDERED BY** the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 19<sup>th</sup> day of July 2010 having passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

**Comments from the Town Council Members  
(For the Good of the Order)**

- **Councilor Bernie Zemen:** • *Park and Recreation Board Liaison • Town Board of Metropolitan Police Commissioners • Lake County Solid Waste Management District Board of Directors • President's designee to Chair the Select Centennial Commission • Chamber of Commerce, Liaison.*

Councilor Zemen expressed appreciation for the Police, and the Community Events Commission for the manner in which the Independence Day Festival was carried out. He further commended the Parks and Recreation Superintendent for the cleaning of the parks.

- **Councilor Dan Vassar:** • *Redevelopment Commission Liaison • Plan Commission member.*

Councilor Vassar recognized the Building Commissioner to report on pending Plan Commission matters.

Councilor Vassar requested the Public Works Director to take steps to remove debris that may be accumulating under the Kennedy Avenue Bridge.

- **Councilor Brian Novak:** • *Advisory Board of Zoning Appeals, Liaison • Traffic Safety Commission Member.*

Councilor Novak commended the success of the recent Independence Day Festival.

- **Councilor Konnie Kuiper:** • *Fire Department, Liaison.*  
*Absent.*

- **Councilor Mark Herak:** • *Town Executive • Police Pension Board of Trustees Chair • Budget Committee Chair • Board of Sanitary Commissioners, Liaison • Board of Waterworks Directors, Liaison • Community Events Commission, Liaison.*

Council President Herak recognized the Public Works Director who reported on the status of Cline Avenue Reconstruction, the repair to the bridge, and the decision by the Town of Griffith to close 45<sup>th</sup> Avenue and Broad Street in consequence of street improvements.

**Comments from the Public or Visitors**

1. Erich Swisher, President of the Highland Fraternal Order of Police, the exclusive representative of the law enforcement officers of the Metropolitan Police Department, inquired about the status of a proposal that the F.O.P. had previously proposed, and

inquired as to why it had not been placed upon the agenda for action by the Town Council.

It was noted that the Town Council would discuss the matter at a study session immediately following the plenary business meeting.

2. Jeffery Ward, 9008 Hess Drive, Highland, joined by two other neighbors, reported on an ongoing concern about what he described as "flood issues" in the back yards of the Hess Drive area. Mr. Ward noted that the Sanitary Board had taken some action involving the Neel residence. Mr. Ward further asserted that he has resorted to pumps to remove excessive water for six years. Mr. Ward appealed to the Town Council or the proper body to consider taking steps to deal with the excess water problem as described.

**Payment of Accounts Payable Vouchers.** Councilor Novak moved to allow the accounts payable vouchers as filed on the pending pay docket, covering the period June 22, 2010 through to July 19, 2010. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The accounts payable vouchers were allowed and the clerk-treasurer was authorized to make payment.

**General Fund, \$647,222.41; Motor Vehicle Highway and Street (MVH) Fund, \$34,607.53; Local Road and Street Fund, \$7,282.68; Law Enforcement Continuing Education and Training Fund, \$1,699.62; Capital Projects Retainage Agency Fund, \$29,406.11; Flexible Spending Account Agency Fund, \$ 3,128.64; Insurance Premium Agency Fund, \$115,707.67; Gasoline Agency Fund, \$22,713.00; Information and Communications Technology Fund, \$12,756.34; Solid Waste District Grant Fund, \$1,596.13; Civil Donation Fund, \$1,046.09; Special Events Non Reverting Fund, \$15,095.16; Centennial Commission Fund, \$612.90; Rainy Day Fund, \$3,823.11; Municipal Cumulative Capital Development Fund, \$65,102.20; General Improvement Fund, \$48.00; Traffic and Law Violations Fund, \$423.00; Safe Neighborhood Grant Fund, \$37,870.50; Municipal Cumulative Street Fund, \$3,833.00; Gaming Revenue Sharing Fund, \$32,124.06; Corporation Capital Fund, \$28,095.07; Total: \$1,064,203.56.**

**Adjournment.** Councilor Zemen moved that the regular meeting be adjourned. Councilor Vassar seconded. Upon a vote *viva voce*, the motion passed. The regular Town Council meeting of **Monday, July 19, 2010** was adjourned at 8:09 O'clock p.m.

*Study Session.* The Twenty-Sixth Town Council of the Town of Highland, Lake County, Indiana met in a study session immediately following the regular meeting on Monday, July 19, 2010 at 8:24 O'clock P.M. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

*Silent Roll Call:* Councilors Bernie Zemen, Mark A. Herak, and Brian Novak were present. Councilor Vassar and Councilor Kuiper were absent owing to a prior commitment. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

#### **General Substance of Matters Discussed.**

1. The Town Council met with Mr. Swisher of the FOP and several of the Metropolitan Retirees regarding an FOP proposal that was postulated to provide an increase for the current retirees in the 1925 plan, and create a new rank of Master Patrol Officer, which would be the basis for the pension. Part of the funding would be provided by relying on the surplus pension contribution that would be available in 2011 from a single police officer, Timothy Towasnicki,

who had reached his maximum contribution cap, and therefore no longer needs to have the employer contribution funded, and he no longer has to fund his employee contribution. Additional funding was identified as coming from a reduction in the uniform allowance.

The discussion included the current budgetary deficit, estimated to be \$350,000. The discussion included the understanding that the proposal would increase costs and that the current budgetary approach suggests contraction. The discussion included the several funding approaches suggested by the FOP proposal and the concerns by the fiscal body and officer that the funding for the increases were not from truly sustainable sources.

Police Officers present inquired about the cost of fireworks and whether or not the elimination of fireworks could present savings provide a funding resource.

Joe Kwasny, a retired police officer, expressed his disappointment that the F.O.P. proposal was not on the agenda. He expressed skepticism about absence of funding.

The discussion included exploration of neighboring communities' fiscal condition.

Officer Swisher expressed his desire that the F.O.P. Proposal be placed on the agenda for action by the Town Council.

There being no further business before the Town Council, the Study Session following the regular meeting of Monday, June 19, 2010, was adjourned at 9:11 p.m. o'clock.

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer